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ABSTRACT

These hearings concern a review of the implementation of Public Law (PL) 94-502, The Veterans' Education and Employment Assistant Act of 1976 and The Veterans Education and Training Program. Testimonies of representatives of the Veterans Administration, veterans' organizations, and education associations are presented regarding resolution of the problem of overpayments of educational benefits to veterans. Testimonies of Congressmen with bills pending before the subcommittee to amend PL 94-502 to provide increases in veterans' education and training rates are also presented. Comments of Veterans Administration officials regarding the amendments are included. Written statements and articles submitted to the committee are also included. Presentations are printed in chronological order but are also alphabetized in the contents by name and/or organization/institution. (BL)

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ED145177

VETERANS' EDUCATION AND READJUSTMENT LEGISLATION, 1977

HEARINGS

BEFORE THE

SUBCOMMITTEE ON EDUCATION AND TRAINING

OF THE

COMMITTEE ON VETERANS' AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

MARCH 29 AND 30; APRIL 19 AND 20; MAY 4, 11, AND 19, 1977

Printed for the use of the Committee on Veterans' Affairs

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EDUCATION & WELFARE
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CONTENTS

Abel, Harold (*See* Central Michigan University.) Page
Aircraft Owners and Pilots Association: Baker, John L., president...... 370-371
Allen, Hon. Clifford........64-66, 110-112, 120, 335, 364-366, 368-369, 426-429
American Association of Community and Junior Colleges: Tirrell, John F., vice president for government affairs............ 120,-123, 127, 135, 137-138
American Association of Minority Veterans Program Administrators: Lawson, William E., Chairman, board of directors.................. 239-242, 260-261, 267, 270-271
American Legion: Lyngh, R. E., deputy director, National Veterans Affairs and Rehabilitation Commission........................ 276-278, 375-376
American Veterans' Committee: Weil, Frank E. G., national secretary and chairman, Veterans Affairs Commission.............. 242-251, 264, 266, 272
AMVETS: McClure, C. Dennis, national service and legislative director... 276
Army Times: Article from...................................... 301-302
Asheville-Buncombe Technical Institute, Asheville, N.C.: Davis, Jack, vice president for student services.............................. 104, 106-120
Association of Independent Colleges and Schools:
  Friedheim, Stephen B., executive vice president................ 139-145
  Fulton, Richard, counsel...................................... 138, 196
Baker, John L. (*See* Aircraft Owners and Pilots Association.)
Bills and reports (H.R. 917 and H.R. 2102)........................ 314-326
Brown, Thomas J. (*See* Northwood Institute.)
Broyhill, Hon. James T.. 309-310
Busbee, Marvin (*See* National Association of State Approving Agencies.)
Byrd, Cecil C. (*See* National Association of Veterans Program Administrators.)
California State University, Long Beach: Horn, Steven, president........ 135-137, 186-187, 198
Carlin, Martin D. (*See* Veterans Administration.)
Central Michigan University: Abel, Harold, president............... 198-199
Change Magazine: Article from.................................. 204-206
Chicago Sun Times: Article from............................ 295-296, 301
City University of New York: Kibbee, Robert J., chancellor.............. 127-130, 133-135, 186, 196-198
Cleveland State University: Waetjen, Walter B., president........... 230-231
Committee staff: Stover, Frank, assistant counsel........ 69, 272-274, 337-339
Congressional Research Service: Legislative history of 38 USC 1673(d) (85-15 rule).. 3-5
Connolly, John J. (*See* Dutchess Community College.)
Cornell, Hon. Robert.. 58, 66-67, 69, 82-83, 93-94, 108-109, 112, 197-198, 333-335, 339, 350, 356-357
Corrada, Hon. Baltasar.. 310-311
Daily News, New York, N.Y.: Article from........................ 302-303
Davis, Jack. (*See* Asheville-Buncombe Technical Institute.)
Davis, Lloyd. (*See* National University Extension Association.)
Davis, McKinley J. (*See* Nash Technical Institute.)
Deal, James T. (*See* National Association of Concerned Veterans.)
Dutchess Community College: Connolly, John J., president.............. 409, 413-419, 422-424
Education overpayments.. 100
Eggers, Melvin A. (*See* Syracuse University.)
Evans, David B. (*See* National Air Transportation Association.)
Federal Times: Article from...................................... 296-297

Page
Fish, Hon. Hamilton 383
Friedheim, Stephen B. (*See* Association of Independent Colleges and Schools.)
Fulton, Richard. (*See* Association of Independent Colleges and Schools.)
Georgia Military College, Milledgeville, Ga.: Salet, Maj. Gen. Eugene A., president 210-211
Hamm, Richard W 293, 295
Hanley, John P. (*See* Mercer County Community College.)
Hannaford, Hon. Mark W. 68, 83-84, 94, 103, 108-110, 112, 117, 381, 383, 386, 399, 409, 420-422, 424, 426, 429
Heckler, Hon. Margaret 57-60, 69, 73-76, 112-117, 144, 180-181, 186, 188, 264-272, 275
Hefner, Hon. W. G. (Bill) 62-64, 336, 366-368
Horn, Steven. (*See* California State University.)
Jenkins, Clauston L. (*See* North Carolina State University.)
Kelly, James K. (*See* State University of New York.)
Kibbee, Robert J. (*See* City University of New York.)
Kiser, Jim. (*See* South Carolina State Board for Technical and Comprehensive Education.)
Kraut, Alex S. (*See* Veterans Administration.)
Lawson, William E. (*See* American Association of Minority Veterans Program Administrators.)
Luzerne County Community College, Nanticoke, Pa.: Rinehimer, Byron L., Jr., president 207-208
Lyngh, R. E. (*See* American Legion.)
McClure, C. Dennis. (*See* AMVETS.)
McKinney, C. A. "Mack". (*See* Non-Commissioned Officers Association.)
McManus, Paul D. (*See* National Association of Veterans Program Administrators.)
Malone, William G. (*See* Veterans Administration.)
Martin, Dallas. (*See* National Association of Student Financial Aid Administrators.)
Massey, Benjamin. (*See* University of Maryland.)
Meeds, Hon. Lloyd 306-309
Memphis Press-Scimitar: Article from 299
Mercer County Community College: Hanley, John P., president 204
Meyer, K. A. (*See* Monmouth Airline Flight Training Center.)
Milwaukee Journal: Article from 230
Monmouth Airline Flight Training Center, Farmingdale, N.J.: Meyer, K. A., administrator 361-369
Mottl, Hon. Ronald M.: 1-2, 57-58, 60, 64, 66-69, 73, 75-77, 82-88, 90, 93-95, 101, 118, 120, 127, 135, 137-139, 145, 149-151, 157-160, 162, 170, 178, 180, 188, 196, 198, 237, 239, 242, 251, 254, 258, 260-261, 263-264, 266-272, 174, 276, 279-280, 290-291, 293-295, 313, 327, 333, 335-337, 339, 342, 346-347, 350, 355-357, 361, 364-366, 368-369, 372, 375, 380
Nash Technical Institute, Rocky Mount, N.C.: Davis, McKinley J., Veterans coordinator 208
National Air Transportation Association: Evans, David B., director of governmental affairs 377-379
National Association of Concerned Veterans: Deal, James T., president 251-254, 267
National Association of State Approving Agencies: Busbee, Marin, national director 149-154, 197
National Association of Student Financial Aid Administrators: Martin, Dallas, executive secretary 214-215
National Association of Veterans Program Administrators:
  Byrd, Cecil C., acting executive director 157-160, 162, 197, 274-275
  McManus, Paul D., position paper 227-230
  Petersen, Marv, member, board of directors 162-170, 254-258, 268-271, 274
  Rhatigan, James J. 231-236
National University Extension Association: Davis, Lloyd, executive director 170-178, 258-264, 267

Page
New York State: State Education Department: Nyquist, Ewald, commissioner 382, 399–404, 409, 424, 426
Non-Commissioned Officers Association: McKinney, C. A. "Mack", staff director, National Capital office 350–357
North Carolina State University:
    Jenkins, Clauston L., assistant to the chancellor 200–203
    Thomas, Joab L., chancellor 200
Northwood Institute, Midland, Mich.: Brown, Thomas J., executive vice president 203
Nyquist, Ewald (*See* New York State.)
Oregonian: Article from 302
Paralyzed Veterans of America, Inc.: Roffee, Lawrence W., Jr., legislative director 372–375
Pensacola Journal: Article from 297–298
Peterson, Mary (*See* National Association of Veterans Program Administrators.)
Pressler, Hon. Larry 291–293
Quillen, Hon. James H 279–280, 291
Rhatigan, James J. (*See* National Association of Veterans Program Administrators.)
Rinehimer, Byron L., Jr. (*See* Luzerne County Community College.)
Roberts, Hon. Ray 333, 335
Roffee, Lawrence W., Jr. (*See* Paralyzed Veterans of America.)
Safford, George M 211–212
Sales and Management Training of Atlanta, Atlanta, Ga.: Shafe, James C., president 213–214
Salet, Maj. Gen. Eugene A. (*See* Georgia Military College.)
Schwab, Donald (*See* Veterans of Foreign Wars.)
Shafe, James C. (*See* Sales and Management Training of Atlanta.)
Sharp, Paul F. (*See* University of Oklahoma.)
Sherman, Herold A. (*See* University of Southern California.)
South Carolina State Board for Technical and Comprehensive Education: Kiser, Jim, coordinator of student services program 104–106, 108–112, 114, 116
Southern Association of Colleges and Schools:
    Commission on colleges, report by 215–225
    Sweet, Gordon W., executive secretary 225–226
State University of New York: Kelly, James K., acting chancellor 409–413
Steed College, Johnson City, Tenn.: Steed, Howard S., president 280–291
Steed, Howard S. (*See* Steed College.)
Stover, Frank (*See* Committee Staff.)
Sweet, Gordon W. (*See* Southern Association of Colleges and Schools.)
Syracuse University: Eggers, Melvin A., chancellor 382–389
The Chronicle of Higher Education: Article from 208–209
The Stars and Stripes: Article from 206–207
Thomas, Joab (*See* North Carolina State University.)
Thornton, Andrew H. (*See* Veterans Administration.)
Tirrell, John E. (*See* American Association of Community and Junior Colleges.)
University of Maryland: Massey, Benjamin, vice president for academic affairs 261–263
University of Oklahoma: Sharp, Paul F., president 304
University of Southern California: Sherman, Herold A 178–180
Veterans Administration:
    Carlin, Martin D., executive assistant to the controller 86–88, 95
    DVB circulars relating to 85–15 rule and 2-year rule 5–51
    Kraut, Alex S., director, Budget Staff 58, 64, 68
    Malone, William G., assistant general counsel 61–62, 72–75, 91, 337
    Memorandum regarding contact hours 145–149
    Questions and answers submitted to VA in writing by Mr. Mottl 95–100
    Status of educational litigation as of March 25, 1977 69–72
    Status of educational litigation as of May 10, 1977 343–346
    Thornton, Andrew H., director, Education and Rehabilitation Service 52–68, 76, 78–87, 89–95, 327–339

Page
Veterans of Foreign Wars: Schwab, Donald, director, national legislative service ____ 238–239, 260, 273, 346–347, 350
Waetjen, Walter B. (*See* Cleveland State University.)
Wall Street Journal: Article from ____ 297
Walsh, Hon. William ____ 82, 90–93, 95, 261–265, 293–295, 381–382, 421–424
Washington Post: Article from ____ 300–301
Watkins, Beverly T., article by ____ 430–433
Weil, Frank E. G. (*See* American Veterans' Committee.)
Wilson, Hon. Bob ____ 311–312
Wolff, Hon. Lester L ____ 424–426, 428
Wylie, Hon. Chalmers P.: ____ 60–62, 88–90, 92, 94, 118–120, 188, 197

REVIEW OF 85-15 AND TWO-YEAR RULES OF PUBLIC LAW 94-502

TUESDAY, MARCH 29, 1977

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EDUCATION AND TRAINING
OF THE COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:02 a.m. in room 334, Cannon House Office Building, Congressman Ronald M. Mottl (acting chairman of the subcommittee) presiding.

Mr. MOTTL. The Subcommittee on Education and Training of the Veterans' Affairs Committee will now come to order.

During the previous Congress, extensive hearings were held by this subcommittee with regard to veterans education overpayments and enforcement of standards in the veterans' education program. The chairman of this subcommittee, Olin E. (Tiger) Teague, has been in the hospital for the amputation of a leg which was badly shattered by enemy action during World War II. In his absence, it is my honor to have been designated by the chairman of this committee to continue oversight hearings on the veterans' education program with particular emphasis on the provisions of Public Law 94-502.

It is the plan of the subcommittee to hold hearings today, March 29 and March 30, during which time we will hear from Veterans Administration witnesses with respect to the implementation of Public Law 94-502. Following the Easter recess, we are planning to hear from representatives of national educational institutions and associations on Tuesday, April 19, and from representatives of veterans organizations on Wednesday, April 20. Later, the subcommittee will hear from members who have introduced proposals which relate to the amending or repeal of provisions of Public Law 94-502. The final witness will be the Veterans Administration, who will be requested to review the entire veterans' educational training program and make recommendations for refinements in the present law as the VA may determine necessary.

Information presented to the subcommittee during the 94th Congress revealed that educational overpayments has reached the staggeringly high figure of $1.4 billion. More serious than the overpayments were widespread abuses which had crept into the veterans' education program and which needed immediate attention to assure that the integrity of the veterans' education program would not be permanently impaired.

During the closing days of the 94th Congress, a previously passed House education bill was returned by the Senate with a number of amendments aimed at tightening the enforcement standards of the veterans' education program and to eliminate many of the identified abuses that had been brought to the attention of our subcommittee. The extensive hearings by the subcommittee provided a basis for the House accepting the majority of the Senate amendments to tighten the veterans' education program. In addition, the House added several amendments, including the termination of education prepayments and provided that advance payments may not be made unless requested by the veteran. The House accepted the Senate amendment extending the 85–15 rule to degree-granting and tax-supported educational institutions with an amendment that the Veterans Administration have authority to waive the 85–15 rule whenever it is in the best interest of the veteran or the Federal Government.

Reports indicate that the 85–15 rule and the 2-year rule provisions of Public Law 94–502 were met with many problems by a number of educational institutions. Under the authority to waive or change this rule, the Veterans Administration has made several changes in its initial implementing regulations regarding the 85–15 rule. This morning, the subcommittee will hear testimony from VA representatives who will review the justification and reasons for recommending that the 85-15 rule and the 2-year rule be extended to institutions who were previously exempt from these rules and how these rules are being implemented and if they are accomplishing the purpose for which they were intended—namely, eliminating identified abuses in the veterans' education program.

Before I introduce my first witness, without objection, would you please furnish for the record copies of all DVB circulars, proposed regulations and regulations issued by the Veterans Administration implementing the provisions of Public Law 94–502 which relate to the 85–15 and the 2-year rules? In addition, I am placing in the record a copy of a letter date January 11, 1977 from the Veterans Administration Administrator, Richard Roudebush, with information in response to a request by this committee regarding implementation of the 85-15 rule.

I also have before me a copy of the history of the 85–15 rule prepared by the Congressional Research Service of the Library of Congress which I will place in the record at this time. Hearing no objection, these will be placed into the record.

[The above-mentioned material follows:]

VETERANS ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, D.C., January 11, 1977.

Hon RAY ROBERTS,
Chairman, Committee on Veterans' Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to the request of your Committee Counsel for information concerning our recent changes in our implementation of the so-called 85–15 veteran enrollment provision of title 38, United States Code.

As you know, section 205(4) of Public Law 94–502, enacted October 15, 1976, extended the application of this requirement to institutions of higher learning and also required the counting of students receiving grants from other Federal agencies. This same provision of law also provides broad waiver authority on implementation of its requirements.

The Veterans Administration has received many letters from leading educational institutions throughout the nation stating that immediate imposition of the provision requiring them to identify students receiving Basic Educational Opportunity Grants (BEOG) or Supplemental Educational Opportunity Grants (SEOG) from the Department of Health, Education, and Welfare would impose on them a burden which cannot be met in the time limitations imposed on them through our earlier instructions to our Regional Offices. In addition, many institutions having minimal veteran enrollment have advised us that the new record keeping provisions would impose on them a burden which would, in reality, be unnecessary.

In order to assist these educational institutions in meeting the necessary requirements imposed by law, the Veterans Administration has taken two steps which we believe will be equitable and still carry out the intent of the law. First, we have amended our recently announced instructions to waive the counting of the so-called BEOG and SEOG recipients for the remainder of the 1976–77 academic year ending not later than June 30, 1977. It is our belief that this waiver will provide schools with necessary lead time to allow them to arrange for obtaining and reporting this grant data for future compliance with the 85–15 ratio requirement.

Second, we have taken steps to relieve those schools with less than 35 percent veteran enrollment from the reporting requirements. It is our view that this waiver will greatly reduce what we consider unnecessary reporting by these schools. We have, however, provided that VA Station Directors will withhold this latter waiver as to specific courses where such courses of study at these schools are identified as having extraordinary veteran enrollments. Those schools having veteran enrollment exceeding the 35 percent figure would, of course, continue to be required to meet the computation provisions.

The actions which have been taken were accomplished under the broad waiver authority which has been granted to me by the new law. It is my belief that these actions will contribute greatly to the equitable administration of the new provisions of VA law. A copy of the recently revised instructions sent to our Station Directors is enclosed for your information.

Committee Counsel also requested the Veterans Administration to furnish you with all of the legal documents which were filed recently in an action in South Dakota challenging two sections of the recently enacted Public Law 94–502. I am pleased to forward them to you for your information.

Sincerely,

RICHARD L. ROUDEBUSH,
Administrator.

Enclosures.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., February 17, 1977.

LEGISLATIVE HISTORY OF 38 USC 1673(d)

Under current law, title 38, United States Code, Section 1673(d) reads: "The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course (other than one offered pursuant to subchapter V, any farm cooperative training course, or any course described in section 1789(b)(6) of this title) for any period during which the Administrator finds more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the education institution, by the Veterans Administration under this title and/or by grants from any Federal agency. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines it to be in the interest of the eligible veteran and the Federal Government."

This provision amended by Public Law 94–502 Section 205(4) changed the former subsection (d) by extending to courses not leading to a degree the statutory limitation with respect to the percentage of veterans eligible to enroll in a course and have it approved by the Veterans Administration. Previously subsection (d) directed the Administrator not to approve the enrollment of any veteran (not already enrolled) in any course not leading to a standard college degree which was offered either by the proprietary-for-profit or proprietary-not-for-profit educational institution where more than 85 percent of the students were wholly or partially subsidized by the Veterans Administration.

This section, first enacted by the Congress when it authorized the Korean Conflict GI Bill in 1952 (P.L. 82–550), was an outgrowth from recommendations of the House Select Committee to Investigate Vocational Training and Loan Guarantee Programs Under the GI Bill. The House Select Committee, chaired by the Honorable Olin E. Teague, looked extensively into the abuses and problems which were inherent in the World War II GI Bill program and concluded that "a new act should be written extending educational benefits to veterans who served during the Korean conflict." It recommended in part that: "4. Enrollment of veterans in institutional training should be limited to courses offered by public schools and colleges, or to courses in private schools which have been in successful operation for at least one year and which maintain an enrollment of at least 25% non-veteran students . . ."

The result of this recommendation was the enactment of the original section 1673(d) described above. While reviewing the legislative history and intent of this section during the consideration of the 1974 GI Bill amendments, the Senate Veterans Affairs Committee became concerned about schools which developed courses specifically designed for those veterans with available Federal moneys to purchase such courses. (At the time that the section was originally enacted, the veterans educational assistance program was the prime (if not sole) source of Federal funds which could be utilized by students in such courses.) The ready availability of these funds, according to the Senate Report 94–1234 on S. 969, 94th Congress, "obviously served as a strong incentive to some schools to enroll eligible veterans. The requirement of a minimum enrollment of students not wholly or partially subsidized by the Veterans Administration was a way of protecting veterans by allowing the free market mechanism to operate." (S. Rept. 94–1243, p. 88)

As originally enacted in 1952, the 85–15 rule applied only to "non-accredited" courses not leading to a standard college degree.

In 1974, Congress evidently concluded that whatever reasons there originally may have been to limit the rule to nonaccredited schools, those reasons were no longer applicable. Accordingly, section 203(3) of P.L. 93–508 extends the so-called 85–15 rule to accredited proprietary-for-profit and not-for-profit institutions not leading to standard college degrees. Courses under subchapter IV for the educationally disadvantaged and subchapter V for PREP (Pre-Discharge Education Program) were specifically exempt from the operation of the revised section because they were, by their very nature, designed for the exclusive enrollment of veterans or other eligible persons under title 38.

In the 94th Congress, in enacting P.L. 94–502, Congress concluded that the relationale for the application of the 85–15 rule should be extended to courses other than just those not leading to a standard college degree.

The Veterans Administration, after noting increased recruiting by certain accredited institutions directed exclusively at veterans, in its report to the Senate Veterans Affairs Committee stated that: ". . . It is our position that, if an institution of higher learning cannot attract sufficient nonveteran and nonsubsidized students to its programs, it presents a great potential for abuse of our GI educational programs . . ." (S. Rept. 94–1243, p. 89)

In addition, in computing the 85–15 requirement, the amendment required the inclusion of not only those students subsidized by the Veterans Administration, but also those students in receipt of grants from other Federal agencies. According to the Senate Veterans Affairs Committee: "The Committee believes the inclusion of other students receiving Federal grants is consistent with the general intent and rationale of section 1673(d) as previously discussed. This would include Federal grants such as basic educational opportunity grants (BEOG) and supplemental education opportunity grants (SEOG) made by the Department of Health, Education, and Welfare. This provision only includes direct Federal grants which do not have to be repaid by the recipient.

"Thus, it would not apply to direct Federal loans, federally insured loans or college or work/study (which is "repaid" by the student services) . . ." (S. Rept. 94–1243, p. 89)

In addition to continuing the exemption for educationally disadvantaged and PREP courses, the amendment specifically exempted farm cooperative training for veterans from the operation of the 85–15 rule. The Veterans Administration stated in its report to the Senate Committee: ". . . The primary objective of the farm cooperative program is to provide meaningful instructions for the farmer while concurrently engaged in active agricultural employment. Farm cooperative programs are generally offered by high schools, area technical schools, and community colleges, and are frequently the result of the joint effort of the State Department of Education, local school officials and county farm agents. These programs are designed primarily for veteran participation. We have found that, when an area is not serviced by an institution offering such a course, a group of veterans engaged in full-time farming has organized such sources with the aid of local groups for veteran participation . . ." (S. Rept. 94–1243, p. 89)

When S. 969 (P.L. 94–502) was considered by the Congress, there was no debate regarding this particular amendment on either the House or Senate side.

Ilona N. Rashkow,
Education and Public Welfare Division.

Department of Veterans Benefits,
Veterans Administration,
Washington, D.C.

[DVB Circular 20–76–84, Oct. 15, 1976]

PUBLIC LAW[1], VETERANS EDUCATION AND EMPLOYMENT ASSISTANCE ACT OF 1976

1. *General*: S. 969 was enacted as Public Law[1] on October 15, 1976. This law provides for an increase in educational assistance benefits for Chs. 31, 34 and 35; an extension of basic eligibility for veterans under Ch. 34 and for eligible dependents under Ch. 35; a new Ch. 32 benefit program and other changes in existing programs. The various provisions of this law are effective on several different dates. This circular has been arranged to show a breakdown of the provisions according to the effective dates.

2. *Provisions Effective October 1, 1976*. a. *Rates*.—Chs. 31, 34 and 35 benefits have been increased approximately 8%. The charge against entitlement for correspondence training will be at the rate of $292 per month. (Flight training remains unchanged at $270 per month). The new rates are shown in paragraph 9.

b. Other provisions effective October 1, 1976:

(1) Increases tutorial assistance to $65 per month and the maximum to $780.

(2) Increases education loan amount to $292 multiplied by number of months of remaining entitlement, and the maximum to $1,500 per year. Changes the rate of interest charged to be comparable to that imposed on loans under part B of title IV of the higher Education Act of 1965. These changes apply to loans made on or after October 1, 1976.

(3) Increases maximum period of entitlement to pursuit of a standard undergraduate college degree. (See par. 8, below.) Note, there has not been any extension to the ten year delimiting date.

(4) The new law has several provisions affecting Ch. 35 periods of eligibility and ending dates. No special review will be made to identify cases affected by the following provisions; any necessary adjustments will be made whenever the cases are reviewed in the future. Note the new law does not permit extensions of entitlement beyond 45 months except those provided in VAR 13044(C).

(a) Permits extension of ending date of Ch. 35 benefits under conditions in 38 U.S.C. 1711(b) for 12 weeks or to the end of the course, whichever is less, for schools not operated on a quarter or semester system. No change has been made in the extension provisions already in existence for schools operated on a quarter or semester basis; these may still be extended to the end of the quarter or semester.

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[1] To be provided at a later date.

(b) Extends period of eligibility for children eligible for Ch. 35 benefits from 5 to 8 years after date of "first finds" or date of first discharge or release from active duty if the eligible person served on active duty between his/her 18th and 26th birthdays but not beyond the 31st birthday (VAR 13041(D)).

(c) Permits extension of ending date for Ch. 35 beneficiaries to the end of the course or 12 weeks, whichever is less, for enrollment in a course not regularly operated on a term, quarter or semester basis and if eligibility period ends after a major portion of the course is completed; or to the end of the term, quarter or semester.

(d) Eliminates extension of ending date for Ch. 35 due to processing time delays.

(5) Allows the SAA to be reimbursed for work performed by subcontractors when the work has a direct relationship to Ch. 32, 34, 35 or 36 and has prior approval of the Administrator.

(6) Increases allowances for administrative expenses paid to State approving agencies by approximately 8 percent. The allowances range from $600 to $12,960 base. The administrative allowances for Fiscal Year 1977 will be computed on the basis of the following rate chart:

Total salary cost reimbursable	*Allowable for administrative expense*
$5,000 or less	$600.
Over $5,000 but not exceeding $10,000	$1,080.
Over $10,000 but not exceeding $35,000	$1,080 for the first $10,000 plus $1,000 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000	$6,535.
Over $40,000 but not exceeding $75,000	$6,535 for the first $40,000 plus $865 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$12,960.
Over $80,000	$12,960 for the first $80,000 plus $755 for each additional $5,000 or fraction thereof.

(7) Increases by $2 the reporting fee paid to educational institutions and joint apprenticeship committees. This adjustment will be made automatically by Hines DPC; however, if a station makes an out-of-system payment to a school, the increase must be added by the station prior to payment.

3. *Provisions Effective Date of Enactment.* a. Allows continued payment of educational benefits for periods between consecutive terms when transferring from one institution to another to pursue a similar course, provided period between the consecutive term is less than 30 days. Such periods are to be counted as absences for courses not leading to a standard college degree. Payment for the interval will be made upon enrollment in the second school at the rate of payment in effect at the first school.

b. Allows continued payment of educational benefits for periods between semesters, terms or quarters when an institution certifies on an individual semester, term or quarter basis, provided the interval period is less than one full calendar month. Such periods are also counted as absences for courses not leading to a standard college degree.

c. Permits a work-study student to complete a work agreement even though the student ceases to attend school full time. If the student terminates training, the student may be permitted to work out only that portion for which he/she has received an advance. A new contract is not needed when the student drops below full time attendance.

d. Eliminates the Ch. 31 extended termination date cutoff (June 30, 1975 or 10 years after applicable termination date, whichever is later) for blinded and other seriously disabled veterans. Provides for training after the applicable termination date when it is determined that such training is needed to accomplish vocational rehabilitation.

e. Defines the terms "institution of higher learning" and "standard college degree". These definitions are basically the same as those presently in PG 21-1 and VA regulations. The provisions of VAR 14280 dealing with independent study have also been placed in statutory language.

f. Changes the title of Ch. 35 benefits as contained in title 38, United States Code, from "War Orphan's and Widows Educational Assistance' to "'Survivors' and Dependents' Educational Assistance."

g. Provides that an otherwise eligible person for Ch. 35 benefits may submit his/her own application if legal age has been attained.

h. Requires that the records and accounts of educational institutions pertaining to all students be made available to duly authorized representatives of the Government to ascertain compliance with Chs. 31, 32, 34 and 35.

i. Repeals the existing 38 U.S.C. sec. 1793 "Institutions listed by Attorney General." Substitutes a new 38 U.S.C. sec. 1793 which defines standards and manpower requirements for annual compliance surveys. These standards of surveys to be made are basically the same as those contained in M22-2, part VII. The law requires one survey specialist for each 40 surveys to be conducted. The Area Field Director will notify stations regarding any modification in staffing and ceilings.

j. Requires a study of vocational objective programs with special attention directed towards the 50 percent employment criteria to be completed and submitted to the Congress and the President within 180 days after date of enactment.

k. Makes minor technical and gender changes throughout Chs. 31, 34, 35 and 36.

l. Establishes within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans Employment who shall advise the Secretary of Labor with regard to policy and procedure for DOL employment assistance and training programs as they affect veterans. Assigns responsibility to the Veterans Employment Service of DOL for promoting veterans' participation in CETA (Comprehensive Employment and Training Act) programs.

4. *Provisions Effective November 1, 1976.* Terminates enrollments and reenrollments in PREP under Ch. 34 effective November 1, 1976. Inservice persons enrolled in and pursuing a PREP course prior to that date will be permitted to complete the current certified enrollment period, but no enrollments or reenrollments may be approved after that date. Stations will immediately notify all schools over which they have processing jurisdiction. (The following stations process Central Office approved PREP courses; Washington Regional Office, Manila, Honolulu, San Diego, Seattle, San Francisco, San Juan, Louisville, Nashville and Waco). The notice will be sent by certified mail, return receipt requested, and must be received by the school prior to the effective date of this provision.

5. *Provisions Effective December 1, 1976.* a. Prohibits payment of educational assistance or subsistence allowance for any program of training as follows:

(1) For auditing a course.

(2) When grade assigned is not used in computing graduation requirement (includes withdrawals except for mitigating circumstances).

(3) For a correspondence or combination correspondence-residence program if the correspondence portion is normally completed in less than 6 months.

b. Even though a beneficiary may designate the address of an attorney-in-fact as the payee's address for the purpose of receiving his or her benefit check, the power of attorney of the beneficiary may not operate to permit the attorney-in-fact to negotiate the check as this is considered an assignment and is prohibited. This prohibition also applies to benefit checks sent to a Post Office box or bank for deposit if the attorney-in-fact has access to the funds deposited.

c. Extends the requirement that no more than 85 percent of the students in a course may have all or part of their tuition or other charges paid to or for them by the school, VA, and/or by Federal grants to all courses except educationally disadvantaged, farm cooperative, and certain courses on or adjacent to military bases. The Administrator may waive these requirements if it is in the best interest of the eligible veteran and the Federal Government.

d. Reduces the number of clock hours required to be considered full-time training for institutional trade or technical courses not leading to a standard college degree approved under 38 U.S.C. 1775, from 30 to 27 per week, excluding supervised study, (shop practice predominates) and from 25 to 22 per week, excluding supervised study, (theoretical or classroom instruction predominates).

e. Requires as additional conditions for approval of a course under 38 U.S.C. 1775: copies of the school catalog certified as to content and policy by an authorized school official; such catalogs must specifically set out schools' standards of progress and conduct; and school must maintain adequate records to show satisfactory standards are enforced.

f. Applies the 2-year rule of operation to each course offered by branches or extensions of public or other tax supported institutions located outside the taxing jurisdiction of the parent school. It also applies the 2-year rule to each course offered by branches or extensions of proprietary institutions located beyond the normal commuting distance of the main campus. Approved courses offered by schools under contract with the DOD (Department of Defense) given on or adjacent to a military base which are available to in-service persons and dependents only do not come under the 2-year rule, but such courses must be approved by the SAA in the State where the base is located.

g. Requires institutions offering approved courses to maintain a complete record of all advertising, sales and enrollment materials used during the preceding 12-month period.

h. Provides that progress will be considered unsatisfactory for programs of education or training under Ch. 34 or 35, except for mitigating circumstances, whenever a veteran or eligible person is not progressing at such a rate so as to graduate within the approved length of the course based on the training time as certified to the VA. Also specifies that the date of interruption or termination will be the last date of pursuit or, for correspondence training, the last date a lesson was serviced by the school.

i. Permits Ch. 31 participants to be trained in facilities of a Federal agency on an uncompensated basis and considers them as Federal employees only in regard to injuries on the job.

6. *Provisions Effective January 1, 1977.* a. Eliminates Ch. 34 training for persons entering service after December 31, 1976 with limited exception for delayed entry program.

b. Provides a final cutoff date of December 31, 1989 for otherwise eligible persons to use Ch. 34 benefits.

c. *Chapter 32.*—Establishes a new Ch. 32—"Post-Vietnam Veterans' Educational Assistance Act," which is voluntary contributory matching-program for persons entering service after December 31, 1976.

(1) The basic delimiting date is 10 years after the date of last release or discharge from active duty after January 1, 1977. Benefits will be accumulated by including contributions from the participating serviceperson and a matching fund from the VA at the rate of $2 for each $1 contributed by the participant. DOD may contribute an additional unspecified amount. The participant's contributions are limited to the range of $50 to $75 monthly and a total maximum of $2,700. Entitlement is limited to a maximum of 36 months or the number of months of participation, whichever is less. Participants may pursue PREP in the last 6 months of their first enlistment.

(2) The law also provides and/or defines for Ch. 32: eligibility, contribution formula and refund provisions, administrative responsibilities and required reports. Aligns Ch. 32 with Ch. 34 concerning various sections of title 38 USC. Detailed explanations and instructions will follow.

7. *Provisions Effective June 1, 1977.* a. Modifies advance pay provisions previously changed by Department of Housing and Urban Development—Independent Agencies Appropriation Act, FY 1977 (PL 94–378). Eliminates need determination for advance payment, but requires request from individual beneficiary and requires that the VA find the school agrees to and can comply with requirements of the law. Eliminates prepayment provisions.

b. Stations will be notified when modifications have been installed concerning these provisions.

8. *45 Months' Entitlement.* a. *Chapter 35.*—The original net entitlement of all eligible persons under Ch. 35 is increased under this law from 36 to 45 months.

b. *Chapter 34.*—Eligible persons under Ch. 34 are now entitled to 45 months of educational assistance allowance if they have served a period of 18 continuous months or more on active duty after January 31, 1955. Those who have not served on active duty for a period of at least 18 continuous months are entitled to educational assistance on the basis of one and one-half months of benefits for each month of creditable service, up to a maximum of 45 months. (Any previous extension beyond 36 months will be deducted prior to the extension to 45 months.)

(NOTE.—The maximum aggregate entitlement to educational benefits under all laws administered by the VA remains 48 months. Therefore, the entitlement determined in accordance with the above, for either Ch. 34 or Ch. 35, is subject to reduction based on prior VA training under a different law.)

c. Effective Date.—The 45 month entitlement provision of this law is effective October 1, 1976. Therefore, any additional entitlement afforded by this provision, beyond that previously established, can be used only for education or training pursued on or after October 1, 1976.

d. *Notification.*—Individual notice will not be sent to those affected by the 45-month entitlement provision. The VA Information Service, however, will be preparing appropriate news releases to the media (including college campuses and veterans organizations) covering this provision. Stations should participate by forwarding this information, as soon as it becomes available, to schools and Vet Reps for prominent posting and/or other means of publication to those affected.

9. ***Payment Tables*:**

a. NEW MONTHLY RATES—GI BILL

	No dependents	1 dependent	2 dependents	Each additional dependent
Institutional:				
Full time	$292	$347	$396	$24
¾ time	219	260	297	18
½ time	146	174	198	12
Cooperative	235	276	313	18
Apprenticeship/on-the-job training:				
1st 6 mo	212	238	260	11
2d 6 mo	159	185	207	11
3d 6 mo	106	132	154	11
4th and any succeeding 6 mo	53	79	101	11
Farm cooperative:				
Full time	235	276	313	18
¾ time	176	207	235	14
½ time	118	138	157	9
Active duty, or less than ½ time	Tuition cost, not to exceed rate of $292 for full time. $219 for ¾ time. $146 for ½ time or less but more than ¼ time, $73 for ¼ time or less.			
Correspondence	Entitlement charged at rate of 1 mo for each $292 paid.			
Flight	Entitlement charged at rate of 1 mo for each $270 paid.			

b. NEW MONTHLY RATES—DEPENDENTS EDUCATIONAL ASSISTANCE PROGRAM

	Full time	¾ time	½ time
Institutional	$292	$219	$146
Less than ½ time	[1]	[1]	[1]
Cooperative	235	[2]	[2]
Farm cooperative	235	176	118

[1] Tuition cost, not to exceed rate of $146 for ½ time and $73 for ¼ time.
[2] Full time only.

Note.—Correspondence and apprentice/on-the-job training rates—same as shown on chart 9a.

c. NEW MONTHLY RATES—VOCATIONAL REHABILITATION—CHAPTER 31

Type of training	No dependents	1 dependent	2 dependents	Each additional dependent
Institutional:				
Full time	$226	$280	$329	$24
¾ time	170	210	247	18
½ time	113	140	165	12
Sheltered workshop, training in the home, independent instructor (full time only)	226	280	329	24
On-farm, apprenticeship or other on-the-job training (full time only)	197	238	275	18
Combination (institutional and on-the-job training (full time only):				
Institutional ½ time or more	226	280	329	24
Institutional less than ½ time	197	238	275	18
Cooperative (full time only):				
Institutional full time	226	280	329	24
Business/industry full time	197	238	275	18

10. Detailed instructions, where necessary, will follow in separate appendixes and circulars.

11. *Rescission*. This circular is rescinded October 1, 1977.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84—Appendix A, Revised (Confirming Teletype Transmission), Nov. 12, 1976]

SIX-MONTH NORMAL COMPLETION TIME REQUIREMENT FOR CORRESPONDENCE COURSES—PUBLIC LAW 94-502

1. *Purpose*. This appendix provides instructions for implementing the 6-month normal completion time requirement of 38 U.S.C. 1780(a).

2. *General*. PL 94-502 amends 38 U.S.C. 1780(a), effective December 1, 1976, to provide that educational benefits may not be paid for pursuit of any correspondence course or correspondence portion of a combination course leading to a vocational objective if the normal period of time required to complete the correspondence course or correspondence portion is less than 6 months.

3. *Implementation*. Before benefits may be authorized for an enrollment period beginning on or after December 1, 1976, correspondence schools must certify to the Veterans Administration the normal completion time of each correspondence course or portion which is approved.

a. "Normal" completion time of 6 months means that 80 percent or more of the students completing the course over the past 2-year period required 6 months or longer to complete it. Completion time for a course is the span between the date a student was sent the first lesson and the date on which the last lesson was received by the school. Note that dates on which the school services lessons are not used to compute completion time, nor is the date the school issues its diploma or certificate. Delays due to payment or shipping problems must be excluded.

b. Education liaison representatives will immediately notify their respective SAA (State approving agency) and all correspondence schools within the jurisdiction of the regional office of the provisions of the law and all requirements of this appendix. The required certification of normal completion time for each course must be received by the SAA, reviewed and sent to the VA before December 1, 1976. Unless it is established that the normal completion time is 6 months or more, benefits will not be authorized for enrollments beginning on or after December 1, 1976.

(1) Before providing the certification, schools will be required to determine if each approved course meets the completion time criterion by computing the completion time for all students who completed the course during the 24 months preceding the date of certification. A school's certification must be based on actual records, and not on estimates. All completers, both veteran and nonveteran, must be considered. If a school has a course or courses for which the audit of actual records cannot be completed before December 1, 1976, and it can with certainty certify that 80 percent of its graduates over the past 2 years required 6 months or longer, it may send such a certification. If a school elects to make such a certification, it must follow it up within 60 days with a certificate of the actual percentage of its graduates over the past 2 years who required 6 months or longer to complete. If the actual percentage report which is subsequently received shows the percentage is less than 80 percent, all awards with commencing dates on or after December 1, 1976 will be terminated retroactively to the date of enrollment. School liability for the resulting overpayments will be considered under existing procedures on the basis of false certifications. If it is found that the school willfully submitted a false or misleading report, e.g., the school fails to submit an actual percentage report or a report is submitted, which is substantially below 80 percent, a complete report will be made and referred to the district counsel for possible referral to the Attorney General of the United States in accordance with VAR 14006.

(2) Applications for approval of new correspondence courses received on or after December 1, 1976, must include a certification of normal completion time. Until VA Form 22-8670, State Approving Agency Review Check Sheet (Correspondence Courses), is revised to include this item, inclusion of the required certification will be indicated under "Remarks."

(3) Applications for approval of correspondence courses as similar in character to a previously offered course (VAR 14251(C)) must also include the normal completion certification, even though it cannot be based on a 24-month history of students completing the course in these cases. The SAA and liaison representative must therefore examine the normal completion certification critically, comparing the normal completion length of the new course to that of the old course of alleged similar character. As a general rule, a course that is being considered as similar in character to another course previously offered should not be considered to require a longer period to complete than the course which was previously approved. As an alternative guideline for determining the validity of such a certification of normal completion time, the judgment should be made whether the course material reasonably requires an average of not less than 6 hours of preparation per week for at least 26 weeks, resulting in a 6-month requirement for course completion.

(4) No extensions of time for submission of the required certification shall be granted.

c. It must be emphasized to schools that this is a statutory requirement and normal completion times as certified for each approved course will be reviewed during SAA supervisory visits and VA compliance surveys.

(1) If it is later found that a certification of normal completion time which was accepted, is incorrect, and in fact normal completion time for a particular course is less than 6 months, the approval for that course will be withdrawn and all awards with a beginning date on or after December 1, 1976 terminated retroactively to the date of enrollment. School liability for the resulting overpayments should be considered under existing procedures on the basis of false certifications.

(2) If an SAA forwards a certification for normal completion time, but the regional office of jurisdiction has evidence from certifications of lessons completed, compliance survey reports, etc., that the certification is not accurate, it should not be accepted until a 100 percent audit of students completing the course within the applicable 24-month period is conducted for verification of the certification.

4. *Reports.* Beginning November 8, 1976, and each Monday through November 29, 1976, liaison representatives will notify Central Office (223B) by teletype of the names of those courses for which affirmative certifications or negative determinations were received during the previous week. On December 1, 1976, liaison representatives must teletype to Central Office (223B) a final report listing the names of all courses for which schools have failed to furnish required 6-month normal completion certifications. The final report should also include and identify all affirmative certifications and negative determinations which were not previously reported. The complete title of each course, the name of the school, and the school facility code must be included with each report. If a certification is received subsequent to transmission of the final report, the liaison representative should notify Central Office (223B) by teletype. RCS 22–20–S is assigned to the weekly reports and the final report of December 1, 1976. Do not enter the RCS report number on reports transmitted subsequent to the final report.

a. As notices are received, Central Office will inform all stations by teletype of the names of the courses which fail to meet the 6-month completion requirement. Stations will also be notified by teletype of the names of all courses for which enrollments will not be accepted because the certification was not received from the school. Once the final reports of December 1, 1976, are received, Central Office will send an all-station teletype which will summarize the previous teletypes and will list those courses not previously reported. No award will be prepared to authorize benefits for any enrollment beginning December 1, 1976, or later, for any course which has failed to meet the 6-month normal completion requirement or for any course for which the school has failed to furnish the required certification.

b. The liaison representative will maintain a control for each case where the school certified without actually checking records to assure that the actual percentage computation is properly certified. If the report from the school is not received by February 1, 1977, or if it fails to support the certificate that the course requires 6 months, Central Office (223B) will be notified. Central Office will then notify all stations by teletype to terminate benefits for any enrollment beginning on or after December 1, 1976 effective from the date of enrollment. Central Office will request VA Forms 20-8270a, Education Master Record—Audit Writeout, for all such courses. These forms will be sent to the office of jurisdiction for appropriate action to terminate payments.

c. Please note that enrollments effective before December 1, 1976 are not affected by the 6-month normal completion provision. Awards for all such enrollments will be continued until completion or interruption.

5. *Rescission.* Appendix A, dated October 21, 1976, to DVB Circular 20-76-84.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84—Appendix B, Oct. 22, 1976]

INCREASED EDUCATIONAL ALLOWANCE AND 45 MONTHS ENTITLEMENT

1. *Purpose.* This appendix provides procedural instructions for implementing PL 94-502 provisions increasing rates of educational assistance and subsistence allowance, and increasing maximum entitlement under 38 U.S.C., chapters 34 and 35 from 36 to 45 months.

2. *Adjustment of Subsistence Allowance (Chapter 31)*:

a. *General.* (1) The increase in chapter 31 subsistence allowance provided by PL 94-502 will be effected automatically through the computer and adjustment checks issued for only those accounts in running award status. Terminated accounts and accounts with withholdings or apportionments, suspended accounts on-farm, apprenticeship and other on-job training accounts, and accounts with intervening dependency changes cannot be adjusted automatically.

(2) Nonadjustment accounts will be identified for review by a listing and matching deck of punch cards for each field station (except the Manila Regional Office). The listing, furnished in triplicate and in claim number sequence, will contain the payee number, stub name, dependency code, and the reason for nonadjustment (e.g., Terminated; Suspended; Has Futures; Withholding or Apportioned; No Match in Table; No Address; Other).

b. *Regional Office Review and Adjustment of Awards.* (1) The deck of cards furnished field stations will be associated with the appropriate R&E folder, and routed to the Adjudication Division for further review and award action if in order. If an R&E folder has been transferred out, the corresponding card will be immediately forwarded to the Adjudication Officer at the office having the R&E folder for appropriate review and action.

(2) After reviewing the R&E folder with the listing, a VA Form 22-1907a, Authorization of Subsistence Allowance under Chapter 31, Title 38, U.S.C., will be prepared if a rate adjustment is in order, in accordance with existing procedure and the following:

(*a*) *Withholding or Apportionment.*—The increased subsistence allowance will be awarded to the veteran unless the application of VAR 10137 warrants otherwise.

(*b*) *Suspended.*—The rate adjustment will be made, if in order, when award action is taken to lift the suspense.

(*c*) *No Match in Table (Apprenticeship and Other On-Job Training).*—If the rate of subsistence allowance being paid is the difference between the trainee wage and the journeyman wage, no adjustment will be required.

c. *Notice to Veterans.* A computer-generated award letter will not be issued with the adjustment check. However, veterans will be notified of the new subsistence rates by means of an insert to be included with each adjustment check issued. This notice will contain rate tables for the various types of training.

3. *Adjustment of Educational Allowances (Chapters 34 and 35)*:

a. *General.* The increase in chapters 34 and 35 educational allowance provided by PL 94-502 will be effected automatically through the computer, where possible, and adjustment checks issued. This will be done for established awards by computer-generation of a 14G transaction for each account which can be adjusted, using reason code 37 for the first applicable award line (existing or computer-generated) on which the new rates are effective. Recycled awards for a period which spans the legislative effective date will be adjusted by generating an October 1, 1976 award line for the new rates.

b. *Adjustment Message.* Generally, neither a message nor a letter will be generated for those accounts automatically adjusted. However, when an award for an inservice student or student training less than half time is adjusted (i.e., old rate was the maximum payable under PL 93–602 and total charges support an increased rate under the new law), VA Form 20–8270a, Education Master Record—Audit Writeout, bearing message code 956, "ADJUSTED BASED ON TOTAL CHARGES," will issue for drop filing. This message will provide ready reference to the adjusted monthly rate for the award period (or portion thereof) to facilitate response to inquiries, etc.

c. *"Not Adjusted" Messages.* A VA Form 20–8270a will issue for each account in which automatic adjustment was not possible. The message codes and conditions for these audit writeouts are described below.

MESSAGE CODE AND LEGEND AND EXPLANATION

540 "Recycled Award Purged—Review for ADJ": Recycled awards for students, other than inservice students, training half time or more (institutional courses) will be adjusted automatically if possible. If an award cannot be adjusted in its entirety, it will be purged. Recycled awards for inservice and less than half-time students cannot be automatically adjusted and will be purged.

729 "Not Adjusted—In Suspense": Any account in a suspended status for a reason other than code 63, "Interrupted—delinquent certification" will not be adjusted. (NOTE: Many of these messages will reflect no-rate dates prior to October 1, 1976, and some will be issued for correspondence courses. While these will require no legislative rate adjustment, nevertheless, they must be carefully reviewed with the claims or DEA folders, and affirmative action must be taken in each case to clear the suspense.

939 "Not Adjusted—Review Apportionee": Accounts in which the "Dependency This" field does not equal the "Dependency Total" field cannot be automatically adjusted.

951 "Not ADJ—First APP Line Does not Compute": Although the dependency code for a chapter 34 veteran is not retained for prior award lines, increased rates can nevertheless be generated by matching the old rate (by type training and training time) to a corresponding new rate. If, however, the old rate does not equal a PL 93-508 or PL 93-602 rate, as appropriate, it will not be possible to match it to a new rate nor to adjust the retroactive period automatically.

952 "Prior/Future Rate not Adjusted": Since entitlement charge, rather than training time, is carried in prior award lines for deficiency courses ("D" type hours), automatic adjustment of such "priors" is not appropriate. Likewise, since the total charges field is not carried in prior award lines, it is not possible to automatically adjust a prior lump-sum award. This message will issue in either case. (Current and/or future award lines in these cases, nevertheless, will be adjusted when possible.) This message will also issue when any future rate cannot be matched to a PL 93–508 or PL 93–602 rate.

953 "Not ADJ—Mul Rates Based on Total Charges": Accounts for inservice students and students training less than half time cannot be automatically adjusted if more than one rate or enrollment period is involved.

954 "Not Adjusted—Inconsistent Payment Data": Automatic adjustment is inappropriate and cannot be made for those accounts containing: inconsistencies between type of training, training time and cost (entitlement) codes; type of training I (Special Restorative) or X (invalid); or a "current" lump-sum award terminated by 09V transaction (monthly rate cannot be computed based upon total charges not prorated for the shortened enrollment period).

955 "Not Adjusted—New Rates Less Than Current": New rate computed based on total charges is less than old rate.

960 "Not Adjusted—Death Case": A terminated record will not be automatically adjusted if the payee is deceased (either death indicator is set or reason for termination is code 22).

d. *Regional Office Review and Adjustment of Awards.* All VA Forms 20–8270a issued for accounts which could not be adjusted automatically will be referred with the appropriate claims or DEA folders to the Adjudication Division for review and any necessary action. If a rate adjustment is in order, an award will be prepared using VA Form 22–1997S.

e. *Correspondence Training.* Since correspondence course payment is based solely on the cost of lessons completed and services by the school, no adjustment of award rate is necessary in such cases. Rather, the adjustment required is to the entitlement charged based on VA payment for lessons serviced on or after October 1, 1976.

(1) Program modifications have been installed to charge entitlement at the old rate of 1 month for each $270 paid if the commencing date of the certification period on which payment is based is prior to October 1, 1976. If the certification period begins on or after October 1, 1976, entitlement will be charged at the rate of 1 month for each $292 paid.

(2) Fortunately, October 1, 1976 marks the beginning of a new certification quarter for correspondence courses. Therefore, proper entitlement charge will be effected as a result of routine processing of the computer-generated VA Form 22–6553B, Certification of Lessons Completed. Care must be taken, however, when processing a 35C transaction via other than a computer-generated VA Form 22–6553B to ensure that the certification period does not overlap legisaltive rates. If certification must be processed for lessons serviced both before and after October 1, 1976, submit two 35C transactions: the first, for those lessons completed prior to October 1; the second, for lessons serviced on or after October 1. Transmittal of these transactions must be controlled to ensure proper sequence processing.

f. *Legislative Rate Coding.* M22–2, part IV, chapter 4, paragraphs 4.16c and 4.19b(13) should be consulted regarding the necessity for intervening legislative rate change coding. Such instructions must be strictly followed when preparing awards for processing after the rate adjustment in order to avoid rejects and/or error message issuance.

(NOTE.—Awards prepared on VA Form 22–1997S need not contain coding for an intervening legislative rate change, provided the award is for a veteran or chapter 35 eligible person training at half time or greater. In such case, the scan program will generate the award line, if appropriate.)

g. *Withholding or Apportionment.* The increased educational assistance allowance will be awarded to the veteran unless the application of VAR 14140 warrants otherwise.

h. *Notice to Veterans and Eligible Persons.* A computer-generated award letter will not be issued as a result of adjustment processing. However, veterans and other eligible persons will be notified of the new educational assistance allowance rates for the various types of training via a check insert to be included with all payments issued cycle 0 November.

4. *45 Months Entitlement:*

a. PL 94–502 increases the maximum original net entitlement under 38 U.S.C., chapters 34 and 35, from 36 to 45 months. Existing master records affected by this increase will be automatically adjusted through the computer during cycle 0 November. At the same time, modifications will be installed to effect proper on-going systems original net entitlement computation based on the new 45 month's maximum.

b. *Master Record Adjustment.* (1) All chapter 35 master records will be automatically adjusted to reflect 45 months original net entitlement, subject, of course, to any appropriate reduction for prior VA training under the same or other laws.

(2) Chapter 34 master records on both the Active and Inactive Files will be automatically adjusted (subject to prior VA training reduction) as follows:

(a) When service consists of one period of 18 or more months; or multiple periods, one of which is 18 or more months (Additional Service Code 4), original net entitlement will be established as 45 months.

(b) In those cases not covered above, if service consists of multiple periods aggregating 25 or more months, original net entitlement will be extended beyond the previous 36 months, based on 1½ months of benefits for each month of service.

c. *OJT/Apprenticeship Adjustment Message.* Generally, due to the vast potential number of claimants affected, neither a computer-generated letter nor adjustment message will be issued as a result of the one-time entitlement conversion. However, in the case of certain adjusted OJT/Apprenticeship accounts, a VA Form 20–8270a bearing message code 982, "45 MO ADJ–REVIEW FOR AWD EXT (OJT/APP)," will be generated and sent to the regional office of record (routing to Adjudication) for review.

(1) 982 messages will be generated for each adjusted account in which current type training is G or K; original net entitlement (prior to adjustment) is exhausted; and the last no-rate date of record is on or after October 1, 1976.

(2) It is most probable that benefits were or will be terminated in many of the cases selected for the 982 message based solely on exhaustion of entitlement; that sufficient, current evidence is already of record upon which payment may be authorized beyond the existing termination date. Therefore, rather than requiring the claimant to initiate request for receipt of the additional training allowance permitted by his or her new original net entitlement, it is both feasible and appropriate that the VA take independent action to extend benefits in these cases. Accordingly, the Adjudication Division must review each 982 message issued and, if appropriate, authorize an amended award extending training allowance from the existing no-rate date to either the certified ending date of the course, the date on which new original net entitlement will be exhausted, or the delimiting date, whichever is earliest.

d. *On-Going Systems Computation.* (1) Effective cycle 1 November permanent modifications to the original net entitlement computation program will be installed, making such computation consistent with the new law entitlement provisions. The changed program will establish 45 months entitlement (subject to prior VA training) for all chapter 35 eligible persons; all eligible persons under chapter 34 who served on active duty for a period of at least 18 continuous months. Original net entitlement for other chapter 34 eligible persons will be computed on the basis of one and one half months entitlement for each month of service, up to the maximum 45 months.

(2) Maximum (45 months) entitlement now requires either 18 continuous months or more creditable active duty service, or multiple service periods aggregating at least 30 months creditable service (30 X 1.5 = 45). Therefore, to ensure appropriate systems computation when multiple service periods aggregate less than 30 months, but one period consists of at least 18 continuous months, Additional Service Code 4 must be input. If this is not done, entitlement will be erroneously computed at 1.5 times the months of creditable service and result in less than maximum entitlement being established.

(NOTE.—The "18–24 MOS" indicator on VA Form 22–1997S will continue to be used for input of Additional Service Code 4. Upon next form replenishment, the legend for this indicator field will be changed to "18–29 MOS.")

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20–76–84—Appendix C (Confirming Teletype Transmission), Oct. 29, 1976]

PERIOD OF OPERATION OF A COURSE—TWO-YEAR RULE

1. *Purpose.* This Appendix provides detailed instructions and procedures for implementing those provisions of PL 94–502 pertaining to the two-year rule.

2. *General.* PL 94–502 amends 34 U.S.C. 1789 by excepting certain courses from the two-year rule and by applying the rule to courses offered by certain branches and extensions previously excluded. These provisions are effective December 1, 1976.

3. *New exception.* In addition to the five exceptions to the two-year rule listed under 38 U.S.C. 1789(b) and VAR 14251(A), a course offered by an institution under contract with DOD (Department of Defense) is also excepted, provided the following three conditions are met: first, the course is given on, or immediately adjacent to, a military base; second, the course is available only to active duty military personnel and/or their dependents; and third, the course is approved by the SAA (State approving agency) in the state where the base is located or, for degree courses offered overseas, by the SAA of jurisdiction over the parent institution. If the first or second condition is not met, the course must be offered continuously for two years before enrollments may be accepted. If the third condition is not met, the course cannot be approved by any other SAA, since all branches and extensions fall under the jurisdiction of the SAA in the state where they are located.

a. The term "immediately adjacent" to a military base refers to facilities that are clearly neighboring or in close proximity to the base so that it is easily accessible to active duty personnel. The location must be such that effective supervision by the military authorities is possible. Presumably, such facilities have been established off base because of a lack of onbase facilities.

b. For a course offered by a branch or extension to be approved by the SAA, the branch or extension must meet the following administrative criteria: (1) Maintain sufficient records and files for VA purposes pertaining to students enrolled therein; (2) Designate a named certifying official; (3) Have the administrative capability to furnish all reports and certifications to the VA without resort to the parent school; and, (4) Maintain a local mailing address.

(NOTE.—In this regard, it is important to distinguish between additional facilities and branches and extensions. See M22-2, part VI, chapter 4, paragraph 4.02c, and PG 21-1 section M-26, for clarification of this distinction.)

4. *New Courses Affected.* a. A course in operation for less than two years shall not be approved when offered by a branch or extension of the following institutions:

(1) Public or tax-supported institutions where the branch or extension is located outside of the area of the taxing jurisdiction which provides support to the parent institution; or

(2) Proprietary institutions (profit or nonprofit) where the branch or extension is located beyond the normal commuting distance of the main campus.

(NOTE.—"Normal commuting distance" is interpreted to mean within the same general locality from which the main campus draws students. Normal commuting distance may vary with each institution depending on various factors, such as the geography of the area and the proximity of similar institutions. No firm guideline specifying exact mileage can be established, although a location more than 30 miles (48 kilometers) away from the main campus would ordinarily be considered beyond the normal distance.)

b. The two-year rule applies to the courses listed above, with only the following two exceptions:

(1) A PREP or SAED (Special Assistance for the Educationally Disadvantaged) course offered by a branch or extension of a proprietary nonprofit institution in operation for more than two years, or a public or other tax-supported institution, even though the branch or extension is located beyond the normal commuting distance of the main campus or area of taxing jurisdiction.

(2) A course offered by a branch or extension of an institution under contract with DOD as specified in paragraph 3 above.

5. *Identification of New Courses Affected.* a. The liaison representative will request from all the schools within the jurisdiction of the regional office a list of each school's branches and extensions. The list should include the names and addresses of all branches and extensions (in state and out of state) and the courses or curricula offered at each. The school will also be asked to certify to the period of operation of each course or curriculum at each location. The following certification should be used: "It is hereby certified that the course (or curriculum), (name of course), has been in continuous operation at (name of branch) from (date) to the present inclusive of reasonable vacation and holiday periods."

b. Courses offered by a branch or extension located on a military installation must now be approved by the SAA in the state where the branch or extension is located rather than in the state where the parent institution is located. Enrollments in courses offered at such branches may continue if, in addition to the certification required above, the school certifies that application for approval was made to the local SAA on or before December 1, 1976. If such a branch or extension does not meet the two-year requirement, certification to the following will be acceptable pending approval by the local SAA:

(1) The course is given on, or immediately adjacent to, a military base, and

(2) The course is available only to active duty military personnel and/or their dependents.

c. The schools should submit their lists and certifications before December 1, 1976; otherwise, no new enrollments will be processed for payment of benefits.

d. The schools will also be advised that, effective immediately, the name and address of the branch or extension must be shown on all enrollment certifications. If the enrollment is at the main campus, that fact must appear on the enrollment certification.

6. *Referral to the SAA.* a. The liaison representative will screen the lists of branches and extensions as they are received from the schools. In-state branches and extensions which may offer courses that must now meet the two-year requirement (as outlined in par. 4 above) will be referred to the SAA for verification of the schools' certifications. For out-of-state branches (including those on military installations), the information will be forwarded to the regional office where the branch or extension is located for referral to the SAA with jurisdiction over the branch location for approval or disapproval action.

b. Where out-of-state branches or extensions are encountered that were not previously identified, the following actions will also be taken (as outlined previously in DVB Circular 20–75–93, rescinded July 1, 1976):

(1) All information on the out-of-state branch or extension (including those on military installations) will be forwarded to the responsible liaison activity with jurisdiction over the area where the branch is located in order to request a new approval from the SAA.

(2) The SAA will initiate approval action and notify the liaison representative at the new office of jurisdiction of all subsequent approvals and denials. The SAA should provide the names and file numbers of all VA education beneficiaries currently enrolled, if obtainable from the branch or extension.

(3) If a course is approved, the liaison representative will process the approval material and establish a new facility code for the branch or extension. The list of names and file numbers will be forwarded to the original regional office of jurisdiction for transfer of folders. Upon transfer, an 02V correction to establish the new facility code must be input in each master record by the Adjudication activity in the receiving station.

(4) If a course approval is denied for reason(s) other than the two-year rule, running awards will be terminated in accordance with VAR 14135(J) at the original office of jurisdiction. (See par. 8b.) Cases that are terminated will not be transferred.

7. *SAA Action*: a. The appropriate SAA will be advised as to the date schools certified as the beginning date of each course for the purpose of meeting the two-year requirement at each branch or extension. The SAA will be requested to verify if the two-year period of operation is met or if one of the two exceptions in paragraph 4b applies. The approval should then be amended to show the basis for continued approval or, if appropriate, denial action should be taken.

b. The SAA will notify the liaison representative of the continued approval or denial action for each course.

8. *Regional Office Control.* a. The liaison representative will maintain a control on all courses referred to the SAA to ensure that notification of continued approval or denial is received.

b. If a course approval is denied because the two-year requirement is not met, the approval for that course will be withdrawn, and all awards for new enrollments on or after December 1, 1976 will be terminated retroactively to that date. School liability for the resulting overpayments should be considered under existing procedures on the basis of false certification, if the school certified erroneously to the period of operation.

9. *Enrollments.* No new enrollments in a course at a branch or extension location with an effective date on or after December 1, 1976, may be approved if the school's certifications are not received or if the two-year requirement is not met. Students enrolled in and pursuing the course before that date will be permitted to complete their program provided they remain continuously enrolled. A break in enrollment due to extenuating circumstances, such as serious illness, will not be considered an interruption in the student's program. Students attending a school operated on a term basis will not be required to attend the summer term to be considered continuously enrolled. If approval of a course is denied or withdrawn for a reason other than the two-year rule, all awards must be terminated in accordance with VAR 14135(J).

10. *Followup Reviews.* On routine SAA supervisory visits and station compliance surveys, school records will be reviewed to verify the certifications made in accordance with this appendix. If the certifications are found to have been false or erroneous, termination action will be taken and school liability considered in accordance with paragraph 8b.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84—Appendix D, Revised (Confirming Teletype Transmission), Feb. 23, 1977]

PROHIBITION OF ASSIGNMENT OF EDUCATIONAL BENEFIT PAYMENTS (PUBLIC LAW 94-502)

1. *Purpose.* This appendix provides instructions for implementing the provision of PL 94-502 which prohibits the assignment of educational benefit payments.

2. *General.* PL 94-502 amends title 38 U.S.C. 3101(a) effective December 1, 1976, to prohibit the assignment of educational assistance checks through the practice of a payee designating the address of an attorney-in-fact (usually a school or school representative in this context) as the payee's check mailing address, and also executing a power of attorney agreement authorizing the attorney-in-fact to negotiate Veterans Administration educational benefit checks. Under this legal provision, schools may not negotiate VA educational assistance checks, nor may schools obtain indirect access to the proceeds of such checks. All VA educational assistance checks must be negotiated by the veteran or eligible person.

a. Indirect access to the proceeds of VA checks is construed to mean any device, coercive or otherwise, a school may employ to limit or predetermine a veteran's or eligible person's disposition of the proceeds of a VA check. Such indirect access would constitute an effective assignment of benefits, which the law is intended to prohibit just as it prohibits direct assignment of benefits.

b. A common example of indirect access is the practice of a school receiving a check for a student, stamping it on the reverse "For Deposit Only" to the schools account, and then calling in the student to endorse the stamped check. This procedure has the effect of controlling the student's disposition of the check and is thus prohibited as it is, in effect, an assignment of benefits. Another example of indirect access which is likewise prohibited is the procedure of showing a bank account number in the check mailing address, but the account is held jointly with the veteran by the school. While it is clear that a veteran or eligible person may endorse an educational assistance check payable to a school to satisfy a debt, this action must be entirely voluntary.

3. *Procedural Requirements.* The following procedures concerning award, development, and reporting actions will be followed to ensure that schools are not obtaining assignment of benefits in violation of the law:

a. All correspondence schools must be informed that no enrollments or reenrollments will be processed on or after December 1, 1976, which show the school's address, or a post office box or sales office address of the school as the student cannot be present at the school to receive checks. Such enrollment certifications will be returned to the student at the school address and no further action taken until a home address is provided for the student. All correspondence schools are hereby notified that if a school address is shown as the student's mailing address on any currently running awards, the school must submit a certification (as specified in subpar. d below) to the VA office with liaison jurisdiction that effective December 1, 1976, they will not accept a power of attorney to cash VA educational benefit checks and they will not exercise check-negotiating authority under any power of attorney previously accepted.

(1) Correspondence schools which refuse to provide the certification mentioned above will be reported by teletype to Central Office (223B). Those schools which have failed to certify compliance but have not actively refused should be contacted once again to solicit the certification; if it is not provided, the school will be reported by the office with liaison jurisdiction to Central Office (223B) as not in compliance. All final reports of noncompliance are due in Central Office before March 1, 1977. Central Office in turn will notify all stations of correspondence schools which have not indicated compliance with this provision of the law.

(2) If a currently running award (including a suspended award) shows the address of a correspondence school listed as not in compliance with the certification requirement, the award will be suspended or allowed to remain in suspense. The claimant will be informed of the action taken and the legal prohibition against assignment of VA educational benefits. He or she will be requested to furnish a current home mailing address and also informed that

no further action may be taken until the requested information is furnished. Such awards should be identified only through routine claims folder processing; special review of claims folders or VA Forms 22-6553b, Certification of Lessons Completed, will not be conducted for this purpose.

(3) Correspondence schools which initially do not certify compliance with the law and are reported to Central Office as not in compliance but later provide the appropriate certification will be immediately reported to Central Office (223B) for removal from the all-station listing of schools not in compliance.

b. All schools, other than correspondence schools, are hereby informed that no enrollments or reenrollments using the school's address or a post office box or sales office address of the school as the student's address will be processed on or after December 1, 1976, unless the school certifies that it holds no power of attorney to negotiate VA benefit checks and it does not have direct or indirect access to the proceeds of such checks other than by direct payment by the payee thereof.

(1) In cases (other than correspondence awards) processed after November 30, 1976, in which the school's address is shown as the payee's mailing address, and the school has not submitted the required certification regarding power of attorney arrangements, or the certification is not acceptable for the reasons explained in subparagraph d(2) below, development will be necessary before processing any enrollments, reenrollments, or adjustments to running awards.

(NOTE.—No special review will be made to identify running awards with a school address. However, when these cases are encountered during normal claims processing and the school has not submitted the required certification, the award will be suspended and development undertaken.)

(2) The claimant will be informed of the provisions of the law and rejuested to furnish either a current home mailing address or a signed statement that he or she has not executed a power of attorney authorizing the school to negotiate VA educational assistance checks and no arrangements have been made to provide the school or its representative direct or indirect access to the proceeds of such checks other than by direct payment by the payee thereof. The claimant will also be informed that no further action can be taken until the requested information is finished.

(3) Similar development must be undertaken if the claimant indicates a post office box or bank address as his or her mailing address and the school has not submitted the required certification. The VA will not require an actual home address in these cases, but the signed certification provided for above must be obtained before any award action can be processed.

c. All educational assistance checks which are in the possession of or received by any school on or after December 1, 1976, must be delivered directly to the veteran or eligible person for his or her disposition. If for any reason a check cannot be delivered to a veteran or eligible person, it must be returned to the Treasury Disbursing Center address shown on the check envelope.

d. Each certification required by subparagraph a or b above must be worded as follows and signed by the appropriate school certifying official: "This is to certify that, in accordance with title 38 U.S.C. 3101(a), (name of school) holds no power of attorney agreements authorizing the school to negotiate educational assistance checks, and neither (name of school) nor any of its representatives has direct or indirect access to the proceeds of any such checks other than direct payment by the payee thereof."

(1) As these certifications are received they will be made part of the respective schools' approval folders and the liaison representative will notify the Finance and Adjudication Divisions that the power of attorney requirements of the law have been met, and enrollments and reenrollments in other than correspondence courses, and certifications of attendance or lessons completed may be processed showing a school address.

(2) Checks mailed to a school address based on the appropriate certification will be mailed only to the school location where the student is in attendance and can receive the check. Educational assistance checks will not be mailed to one school location for further distribution to other locations of the school. If a school with multiple locations attempts to use only one address as a check mailing address for all students, development for the addresses of separate locations must be undertaken before processing award actions for students enrolled at those locations. If a particular school location does not

have the capability of receiving checks, safeguarding them, and properly delivering them to students, development for a home mailing address for each veteran or eligible person enrolled at that location must be completed as outlined in subparagraph b(2) above.

4. It must be made clear to schools that compliance with this provision of the law will be checked during future compliance surveys. Spot checks may also be made to verify the signatures on negotiated checks. If it is found that a school held a power of attorney and negotiated VA checks or otherwise had access to the proceeds of such checks other than by direct payment by the payee thereof after having certified that it did not, payments (for those beneficiaries involved) for attendance at the school and further enrollments in the school will be suspended under VAR 14134 and the matter will be referred to the Station Committee on Educational Allowances to consider withdrawal of the school's approval. In addition, overpayments may be established and school liability assessed on the basis of false certifications.

5. *Rescission.* Appendix D, dated October 29, 1976, to DVB Circular 20-76-84.

Rufus H. Wilson,
Chief Benefits Director.

[DVB Circular 20-76-84—Appendix E (Confirming Teletype Transmission Nov. 16, 1976)]

Education Loans

1. *Purpose.* This appendix provides instructions for implementing the provision of PL 94-502 which increased the education loan amount effective October 1, 1976.

2. *General.* PL 94-502 increased the amount a veteran or eligible person may borrow not to exceed $292 multiplied by the months of remaining entitlement at the beginning of the academic year or other period to which the loan is to apply. The loan amount may not exceed $1,500 in any one regular academic year.

3. *Implementation.* The following instructions apply:

a. The loan amount will be rounded to the nearest $10 amount; e.g., if the approved loan amount is $495, this amount will be rounded to $500. Additionally, loan amounts are subject to the following limitations:

(1) Courses organized on a term basis

Period:	*Maximum*
Academic year[1]	$1,500
Semester	750
Quarter or summer session[2]	500
Academic year plus summer session	2,000
Semester plus summer session	1,250
Quarter plus summer session	1,000

[1] "Academic year" means the 9-month period, usually from August or September to May or June, which includes generally two semesters or three quarters.

[2] "Summer session" means a designated summer term of at least 10 weeks' duration.

(2) Courses not organized on a term basis:

Length of course (months):	*Maximum loan*
6 through 8	$1,000
9 through 11	1,500
12	2,000

b. The interest rate is changed to 7 percent. For all loans paid since October 1, 1976, the borrower will be notified in writing that the interest rate of 8 percent shown on the promissory note (VA Form 22-8726) is changed to 7 percent. Copies of this letter will be filed with the original promissory note in the Finance activity and with the copy in the claims or DEA folder.

c. If a loan request is being considered and the promissory note has not yet been released, the maximum loan amount (item 7, VA Form 22-8727, Education Loan Worksheet) will be adjusted, if appropriate, based on the new increased maximum allowable. In addition, the amount entered in the approved loan amount (item 8, VA Form 22-8727) may be more than that requested by the applicant. The promissory note will be completed reflecting loan amount as approved.

d. If the promissory note has been released but has not yet been returned, the following procedures will control. Upon the return of the promissory note, the Finance activity will process the promissory note for payment. In addition, if the original loan amount was the old maximum for the period involved (see M22-2, pt. IV, ch. 14, par. 14.04), the Finance activity will refer the case to the Adjudication Division for a reconsideration of the loan amount. If it is determined, based on evidence of record, that an additional amount is payable, a promissory note will be sent to the claimant showing only the additional amount and an explanation of the reconsideration under PL 94–502.

e. The following considerations will be given to loans paid since October 1, 1976, but prior to receiving these instructions. If the veteran or eligible person specifically requests in writing that consideration for a higher loan amount be given now, such requests will be reconsidered based on evidence of record only if the original loan amount was the maximum for the period involved. If the reconsideration results in a favorable decision, a new promissory note for only the additional amout will be sent to the claimant for completion before the additional amount can be paid. No general review of cases in these circumstances will be made, nor will solicitation be made when cases are discovered in routine processing.

f. For education loans paid before October 1, 1976, in which the period of time the loan was based ends before October 1, 1976, no reconsideration for an increased loan amount may be made. For those loans paid before October 1, 1976, in which the period of time the loan was based ends October 1, 1976 or later, reconsideration of the loan amount may be made only when requested in writing by the veteran or eligible person. Such requests will be reconsidered based on evidence of record only if the original loan amount was the maximum for the period involved. When the reconsideration results in a favorable decision, a new promissory note for only the additional amount to be paid will be sent to the claimant for completion. This may result in two notes, each with different interest rates and possibly different amounts for the same period; however, this is appropriate.

4. Until modifications can be made to VA Forms 22–8725, Application for Education Loan, and 22–8727, these forms will be modified by hand before they are sent to a claimant (22–8725) or when used in loan processing (22–8727). For VA Form 22–8725, items 1C and 4 of the instruction sheet must be modified. For VA Form 22–8727, items 7C and 7D must be modified.

RUFUS H. WILSON,
Chief Benefits Director.

NOTE.—Distribution to DVBE not required.

[DVB Circular 20–76–84—Appendix F (Confirming Teletype Transmission) Nov. 17, 1976]

PUBLIC LAW 94–502 PROVISIONS AFFECTING CHAPTER 31 PROGRAM

1. *Purpose:* This appendix provides instructions for implementing those provisions of PL 94–502 pertaining to the extension of eligibility for seriously disabled veterans and chapter 31 training in Federal agencies.

2. *Extension of Eligibility for Seriously Disabled Veterans:* Title 38, U.S.C., section 1503(c), was amended by PL 94–502, effective October 15, 1976, by striking out "but not beyond ten years after such termination date, or June 30, 1975, whichever date is the later" and inserting in lieu thereof "when such action is determined by the Administrator to be necessary for such veteran based upon such veteran's disability and need for vocational rehabilitation". This means that veterans who are seriously disabled as a result of disability incurred in service on or after Setpember 16, 1940, and who are found to be in need of training to overcome the handicap of such disability may be provided the training necessary to accomplish vocational rehabilitation in a suitable occupation (M22–1, pt. I, ch. 5, pars. 5.01 and 5.02, and VAR 10701) after the termination date that would be applicable if the veteran were not seriously disabled, regardless of how much time has elapsed since that termination date.

a. *Identifying veterans affected by the extension.*—Each station will make every effort practicable to identify those seriously disabled veterans who have been precluded or discontinued from chapter 31 training because of the previously applicable limit to extension because of serious disability Groups to be identified include:

(1) Those seriously disabled veterans currently in training whose extended termination date will arrive before training is completed.

(2) Those seriously disabled veterans discontinued from chapter 31 training as of June 30, 1975 or subsequent to that date because their extended termination date had been reached.

(3) These veterans rated 30 percent or more who applied for chapter 31 training after March 31, 1975, who were disallowed because the extended termination date under VAR 10041(F) was past or there was insufficient time remaining before such date to provide at least 3 months' training benefits.

b. *Notifying veterans.*—Veterans so identified will be contacted and informed of the change in the law and those who desire consideration for further Veterans Administration training will be scheduled for counseling and provided benefits as warranted. If the veteran is in training under the State-Federal rehabilitation program, plans for VA training should be coordinated with the State vocational rehabilitation counselor.

c. *Basic considerations.*—It is relevant to call attention to the fact that the veterans to whom the change in the law applied include some veterans who are at a stage of life where there may be limited prospect of restoring employability through training. In each case, it is essential to consider whether there is basis for reasonable expectation that the provision of vocational rehabilitation training will, in fact, restore employability since it is only for such purpose that vocational rehabilitation training may be authorized. (Title 38, U.S.C., sec. 1501, and VAR 10701(C))

d. *Referral to C & R by adjudication.*—Vocational rehabilitation applications received from veterans with 30 percent or higher disability compensation rating will now be referred by Adjudication to C & R, if otherwise eligible, regardless of termination date.

3. *Chapter 31 Training in Federal Agencies:* Procedures for providing unpaid training or work experience in Federal agencies as a part or all of a veteran's program of vocational rehabilitation are in process of development with the Civil Service Commission and will be provided stations as soon as possible.

RUFUS H. WILSON,
Chief Benefits Director.

NOTE.—DVBE distribution not required.

[DVB Circular 20-76-84—Appendix G (Confirming Teletype Transmission Nov. 17, 1976]

TERMINATION OF CHAPTER 34 PREP (PUBLIC LAW 94-502)

1. *Purpose.* This appendix provides instructions for implementing the PL 94-502 provisions terminating chapter 34 eligibility for course pursuit under PREP (Predischarge Education Program).

2. *General.* a. PL 94-502 amends 38 U.S.C. 1696, providing that no serviceperson shall be permitted to enroll or reenroll in any PREP course after October 31, 1976; therefore, no educational assistance allowance shall be authorized for such enrollments. The effect of this provision is to terminate PREP eligibility under chapter 34, though existing PREP awards for individual subjects commenced prior to November 1, 1976, shall be allowed to run to completion.

(NOTE.—Any enrollment certifications for such PREP course enrollments as commence prior to November 1, 1976, regardless of when received, shall continue to be processed in accordance with existing instructions.)

b. Effective with enrollments after October 31, 1976, chapter 34 inservice students may receive educational assistance allowance for pursuit of approved non-PREP courses at the secondary level leading to a high school diploma or noncredit deficiency courses under VAR 14272(F), but only with an accompanying charge against entitlement. As to the latter type courses (whether they be termed deficiency, remedial, or refresher), no benefits shall be authorized to an inservice student for their pursuit without evidence that completion of such courses is specifically required by the school for that particular individual, to meet certain postsecondary program scholastic or entrance requirements. No foreign training may be approved unless it leads to a standard college degree and is offered by an approved educational institution of higher learning.

3. *Authorization Procedure.* a. Systems programs already provide for charging an inservice student entitlement for pursuit of high school type training

(type "F") when the special eligibility indicator in the master record is other than code 5 (PREP). Therefore, no delay is necessary in processing award authorizations for non-PREP-approved high school enrollments commencing on or after November 1, 1976. The adjudicator or education claims clerk need only ensure that any current or pending special eligibility indicator code 5 in the master record is eliminated prior to award processing.

(1) In most cases, new C/E (Certificate of Eligibility) data to update the facility and/or program of education will have to be input with the award. When VA Form 22-1997S, Education Award Code Sheet, is used, checking the appropriate C/E data block and leaving the PREP indicator blank will remove the special eligibility code 5. When flexotype (SYCOR) is used, it must be ensured that special eligibility code 0 (or other appropriate code, not 5) is input as part of the 03C Transaction to accomplish the desired result.

(2) In other cases, such as when the inservice student transfers from a PREP-approved high school program to a non-PREP-approved high school program at the same school, complete new C/E data input, though otherwise not required, nevertheless should be processed as provided above to ensure that the special eligibility indicator is properly updated. As an alternative procedure, an 02V correction transaction to the pending special eligibility field may be processed prior to the award action (input code 0 to Field Identification No. 436). Such correction, however, can only be input via flexotype (SYCOR), since PREP indicator coding on VA Form 22-1997S (without C/E data action coding) will result in 02V Transaction processing to the "current" special eligibility indicator (Field Identification No. 385). This would cause an erroneous recomputation of entitlement for the last rate period of record.

b. As is the case with high school pursuit, no systems modification is required to properly implement charging an inservice student entitlement for noncredit deficiency course pursuit commencing after October 31, 1976. The adjudicator or education claims clerk need simply prepare the award in the usual manner, showing "D" type hours, but enter an entitlement charge in all such cases comparable to training time, based on the total number of hours, credit and noncredit, for which the student is enrolled.

4. *Prospective Processing Modification.* Stations will be further advised concerning the installation of systems edits planned to prevent erroneous PREP award authorization for enrollments after October 31, 1976. Notice will also be provided, if necessary, regarding any changes to be made to the facility file. Separate instructions for PREP processing based on chapter 32 eligibility will be issued at an appropriate future date.

RUFUS H. WILSON,
Chief Benefits Director.

NOTE.—DVBE distribution not required.

[DVB Circular 20-76-84—Appendix H, Revised, Dec. 17, 1976]

(NOTE.—Responses to appendix H have indicated that clarification of certain provisions is desirable. In particular, provisions for processing enrollments during the initial interim period have been altered, and requirements relating to waivers and submission of 85–15% certifications have been modified. Most changes are for clarification rather than substantive change; changed material appears enclosed by brackets.)

1. *Purpose.* This appendix provides instructions for implementing the provision of PL 94-502 which extends the 85–15% ratio requirements to additional types of courses and specifies additional types of financial support which must be computed into the 85% portion of the ratio. This appendix also explains the conditions under which the Administrator may waive the requirements because it is determined to be in the best interest of the veteran and the Federal Government.

2. *General.* PL 94-502 amends title 38 U.S.C. 1673(d) to provide that, effective December 1, 1976, the enrollment of an eligible veteran (not already enrolled) may not be approved in any course for a period during which more than 85 percent of the students enrolled are having all or part of their tuition, fees, or other charges paid to or for them by the school, the Veterans Administration and/or by grants from any Federal agency. Specifically excepted from computing 85–15% ratios are special assistance payments for the educationally disadvantaged (under subchapter V of chapter 34), farm cooperative courses, and courses offered under contract with the Department of Defense on or immediately adjacent to a military base and which are available only to active-

duty military personnel and their dependents if approved by the SAA (State approving agency) in the State where the base is located. In the case of a military installation located outside of the United States, approval will be by the SAA in the State where the parent school is located. As noted in paragraph 1, certain requirements can and will be waived by the Administrator. The new law extends the 85–15% ratio requirement to degree-granting institutions, and the requirement now applies to both proprietary profit, proprietary nonprofit institutions, and public and other tax-supported schools. In addition, students receiving grants from all Federal agencies other than the VA, with certain exceptions as explained below, must now be counted in the 85% portion of the ratio.

3. *Identification of Affected Courses.* An 85–15% ratio must be computed for each course of study or curriculum leading to a separate approved educational or vocational objective. Computations will not be made for unit subjects, unless only one unit subject is approved by the SAA to be offered at a separate branch or extension of a school. Courses or curricula which are offered at separately approved branches or extensions must have an 85–15% ratio computed separately from the same course offered at the parent institution; the student figures from the branch may not be added to those of the parent institution even for the same courses or curricula. Courses or curricula offered at an additional facility, as opposed to a branch or extension, must be added for 85–15% computation purposes to the same course at the parent institution. Pursuit of a course or curriculum that varies in any way, although it may have the same designation as another curriculum, will require a separate 85–15% computation. A course or curriculum will be considered to vary from another if there are different attendance requirements, [ ] required unit subjects are different, required completion length is different, etc.

[a. For computation purposes, separate courses in IHL's (institutions of higher learning) will be determined by general curriculum only until the point at which it is reasonable to assume a major field would be declared. After that point, 85–15% requirements must be met for each specific curriculum based on a major field of study as certified to the VA. School policy for declaring fields of study must be equal for veterans and nonveterans alike. Because of numerous inquiries and comments, serious consideration has been given to broadening the definition of "course" for 85–15% purposes, but it has been determined that the following guidelines are the most lenient possible within the language of the statute and the underlying intent of Congress.]

(1) In 2-year IHL's, general curricula such as AA (Associate of Arts) or AS (Associate of Science) degrees with no major specified will require separate computations. Specific curricula for associate degrees will require separate computation for each curriculum. Terminal 2-year courses (e.g., AAS (Associate of Applied Science) Dental Technology, Auto Mechanics Certificate) must be computed separately for each objective.

(2) Students attending 4-year IHL's and graduate schools may be counted in general curricula such as BA (Bachelor of Arts) and BS (Bachelor of Science) only until the normal point at which the student must declare a major subject at the particular school. Then the 85–15% computation must be made for each specific curriculum; e.g., BS (Bachelor of Science) in Electrical Engineering, MA (Master of Arts) in English, etc. The rules mentioned above regarding branches and extensions must be applied strictly to yield accurate computations and correct approvals.

b. NCD (noncollege degree) courses must be computed separately by approved vocational objective. If several curricula lead to the same coded vocational objective, each must meet the 85-15% requirement separately, unless it can be shown that two or more courses are identical in all respects (scheduling, hours devoted to each unit subject, etc.). Once again, branch or extension courses will be computed as separate courses or curricula. Courses offered on full-time and part-time bases which are identical in length and content wil be combined for computing the ratio.

4. *Waivers.* The following waivers for 85-15% computation have been determined by the Administrator to be in the best interest of veterans and the Federal Government, and authority to apply them is hereby delegated to all station Directors. [Note that when a type of assistance received by a student is waived, that student must still be counted in the ratio. However, that stu-

dent will be counted in the non-VA, nonsupported portion of the ratio as a result of the waiver.] (See subpar. f.)

a. Graduate Students; waive counting all Federal assistance (other than VA benefits) and all support from the institution. No specific application for this waiver is required from the school.

b. Undergraduate and NCD Students:

(1) Waive counting all assistance provided by an institution, if the institution policy for determining the recipients of such aid is equal with respect to veterans and nonveterans alike. [A specific application for this waiver from the school to the station Director is not required.]

(2) Waive computation of the 85-15% ratio for any course offered by an IHL or NCD if 35 percent or fewer of the students in the course receive VA educational benefits, and the percentage of VA-supported students in the course plus the percentage of the school's total enrollment receiving BEOG (Basic Educational Opportunity Grants) or SEOG (Supplementary Educational Opportunity Grants) totals 85 percent or less. For example, if a school finds that 29 percent of the enrollees in a business AA degree curriculum receive VA payments and 52 percent of the school's total enrollment receives BEOG or SEOG support, the total of the percentages (81%) qualifies that business AA degree for a waiver of any further 85-15% ratio computation. Satisfactory compliance with the 85-15% requirement is assumed when the above conditions are fulfilled. If the total of the two percentages exceeds 85 percent, the ratio must be computed for that course with BEOG and SEOG recipients included in the 85 percent portion of the ratio.

(a) When more than 35 percent of the enrollment in a course receives VA assistance, the ratio must be computed for that course with BEOG and SEOG recipients included in the 85 percent portion of the ratio.

(b) This count of VA-supported students and BEOG or SEOG recipients must be completed within 30 days of the beginning of each regular academic term (summer session excluded) [or before the beginning date of the next term, whichever is earlier,] for application to the next terms for the purpose of waiving computation of an 85-15% ratio for each affected course. For schools not operating on a term basis, [counts as of the last day of the quarter] must be completed within 30 days of the end of each calendar quarter (March, June, September, December). If this count is not submitted for a course which previously had its ratio computation waived, a complete computation will be required before any new enrollments of eligible veterans may be processed for that course.

(3) Waive counting all forms of Federal assistance other than BEOG and SEOG. Specific examples of this type of waiver are benefits administered by the Social Security Administration, Federal grants supporting specific programs such as law enforcement (LEEP, Safe Cities Act grants), nursing, etc., Government Employees Training Act support, and tuition paid by an Armed Service to active-duty personnel. No specific application is required for this waiver.

(4) Waiver for all so-called military aero clubs which were previously exempt from 85–15% requirement under VAR 14202(C)(3). No specific application is required for this waiver.

(5) Waiver for courses open only to military personnel, their dependents, and civilian employees of a military installation when the course is offered on or adjacent to the base under contract with the Department of Defense and the branch or extension is approved by the SAA in the State where the military installation is located. In the case of foreign military installations, approval will be by the SAA in the State where the parent school is located. This waiver is an expansion of the statutory exclusion explained in paragraph 2 above. If the course is offered to other students, the 85-15% ratio requirement must be met. [No specific application is required for this waiver.]

[c. Schools which submit satisfactory certifications of 85-15% compliance based on use of one or more of the above waivers must maintain records for a period of 3 years following termination of the enrollment period showing the basis for the waiver and the separate percentages of students falling into each waived category. The waivers and supporting data will be reviewed during compliance surveys.]

d. Schools which offer courses not meeting the 85-15% requirement for any reason may apply to the appropriate station Director for a [specific waiver of the requirement except for VA benefits. This generally will be a request for a waiver for BEOG and SEOG.] The school must state the specific basis of the specific waiver request, show the computation of the ratio for the affected course, and submit sufficient information to allow the Director to judge the merits of the request against the criteria shown below. The Director should use all VA sources as well as school-submitted data and statements when considering a specific waiver request in relation to these criteria. [(See subpar. f below.)]

(1) Availability of comparable alternative educational programs effectively open to veterans in the vicinity of the school requesting a waiver.

(2) Status of the school requesting a waiver as a developing institution primarily serving a disadvantaged population. The school should enclose a copy of the notification of developing status from the Office of Education, if applicable. Otherwise, the school should submit data sufficient to allow the Director to judge whether the school is similar to officially classified developing institutions, according to the criteria and data categories published in Part 169, Subpart B, title 45, Code of Federal Regulations. The requirement that a school be a "Public or Nonprofit" institution need not be met.

(3) Previous compliance history of the school, including such factors as false or deceptive advertising complaints, enrollment certification timeliness and accuracy, and amount of school liability indebtedness to the VA.

(4) General effectiveness of the school's program in providing educational and employment opportunities to the particular veteran population it serves. Factors to be considered should include percentage of veteran students completing the first year of the course of study and completing the entire course, results of the 50 percent employment survey for vocational objective courses, ratio of educational and general expenditures to full-time equivalency enrollment, etc.

(5) If a school does not agree with a Director's determination concerning a specific 85-15% waiver, it may request that the application along with the Director's findings and recommendation be forwarded to Central Office (224C) for administrative review.

e. All waivers of 85-15% requirements, whether partial or total and whether granted by a station Director under delegated authority or by Central Office decision, will be made part of the school approval folder and will be subject to annual review for continuation.

[f. Waivers will not be granted for courses in which the percentage of veterans enrolled exceeds 85%, except that the percentage may be exceeded in courses offered by military aero clubs. Of course, the 85% limitation may also be exceeded in courses exempted by law (see paragraph 2 above.)]

5. *Countable Assistance for 85-15% Computations.* In conjunction with the delegated waivers provided for the preceding paragraph, the following types of assistance must be counted for determining compliance with 85-15% requirements.

a. Accredited graduate and advanced professional courses; count [only VA assistance provided under chapters 31, 32, 34 and 35,] except for courses offered on or adjacent to a military installation as explained in paragraph 2.

b. All other courses: (1) [Count only VA assistance provided under chapters 31, 32, 34 and 35] except farm cooperative, assistance under subchapter V of chapter 34, and courses offered on or adjacent to a military base open to only active-duty personnel and their dependents (and civilian employees of the base, if waived by the station Director).

(2) Count BEOG and SEOG as Federal assistance, unless computation for a course is waived by the station Director (see par. 4b(2)) under delegated authority or waived by Central Office.

(3) Count all support offered by the institution, unless waived by the Station Director or Central Office.

6. *Computation of 85-15% Ratio.* To determine if this requirement has been met, the number of students in a course who are not veterans, are not receiving a form of Federal or institutional aid (exclusive of waivers and statutory exemptions), or are receiving a form of aid which has been waived, will be compared to the total number of students enrolled in the course. If the non-VA, nonsupported students (unless waived) do not comprise at least 15% of the total enrollment, the 85-15% requirement has not been met for that course.

a. If all students in a course are full-time trainees, the radio is computed simply by dividing non-VA, nonsupported students by total students; e.g., 20 non-VA, nonsupported students divided by 100 total students equals .20; the 15% requirement would be met in this case.

b. Ratios which include less than full-time students may be computed by comparing full-time equivalent non-VA, nonsupported students to the total number of full-time equivalent students. For example, assume that there are 100 students enrolled in a particular course of study; 75 are full-time students and 25 are half time. The total full-time equivalency enrollment would be 75 plus 12.5 or 87.5. Similarly, if 20 non-VA, nonsupported students are full-time trainees and five are half-time students, the non-VA, nonsupported full-time equivalency would be 20 plus 2.5 or 22.5. The ratio is computed by dividing non-VA, nonsupported equivalencies by total full-time equivalencies: 22.5 divided by 87.5 equals .26. In this example the 15% non-VA requirement would be fulfilled.

[c. This appendix does not alter methods of 85-15% computation previously required of flight and correspondence schools. However, these schools must recognize the additional forms of aid which may have to be computed into the supported (85%) portion of the ratio.]

7. *Certifications of 85-15% Compliance.* [The provisions of the new law make it necessary to institute new procedures for initial and continuing certifications of compliance with the 85-15% requirements.]

a. [No initial 85-15% ratio computation is required for any course organized on a term basis which began before December 1, 1976. All computations for courses organized on a term basis beginning on or after December 1, 1976, must be received by the appropriate VA station within 30 days of the beginning date of the course or before February 1, 1977, whichever is later. Computations for all courses not organized on a term basis must be received by the VA before February 1, 1977. This extension for initial certifications of compliance is provided to allow both VA and school personnel to familiarize themselves with the new statutory and administrative requirements.]

b. [If schools will provide reasonable assurance of 85-15% compliance, enrollment certifications for courses beginning on or after December 1, 1976 will continue to be processed without individual certifications of 85-15% compliance only until actual computations are completed and submitted as specified in subparagraph a above. A school may provide reasonable assurance based on percentages of VA supported and otherwise federally-supported students enroled in the school. If a station Director has reason to question any school's reasonable assurance he or she is authorized to defer processing new chapter 34 enrollments for that school until actual computations are completed and certified to the VA. If a school cannot or will not provide reasonable assurance of compliance, new chapter 34 enrollments may be processed only if they are accompanied by the appropriate individual 85-15% certification.]

c. [After the initial computation for a course, continuing 85-15% ratio certifications for each course must be received by the VA no later than 30 days after the beginning date of the terms (excluding summer sessions) or before the beginning date of the next term, whichever occurs first. Certification for courses not offered on a term basis must be received by the VA no later than 30 days after the end of each calendar quarter.

(1) New enrollments of eligible veterans in a course will be processed based on the most recent available computation and certification of the 85-15% ratio. Upon receipt of information that either the initial or any subsequent computation shows that the 85% limitation is not met for a course, processing of new chapter 34 enrollments in that course will be discontinued immediately. Processing such new enrollments for that course may be resumed only after the school submits a certification showing that the proper ratio has been reestablished. In cases where a school shows a reestablished 85-15% ratio, the school must individually compute each new veteran enrollment submitted after reestablishment into the ratio for the course to ensure that the 85% limitation is not again immediately exceeded. Individual computations will be required until the end of the term for which the ratio was reestablished.

(2) Schools will maintain the records and computations showing 85-15% compliance for each course for a period of 3 years after the ending date of the enrollment period.]

[d.] Once a student is properly enrolled in a course either before December 1, 1976, or enrolls after November 30, 1976 in a course which meets the 85-15%

requirement, such a student may not have benefits for that course terminated because the 85-15% requirement is subsequently not met, as long as the student's enrollment remains continuous. A student enrolled in an institution organized on a term basis need not attend summer sessions in order to maintain continuous enrollment. An enrollment may also be considered continuous if a "break" in enrollment is wholly due to circumstances beyond the student's control such as serious illness.

[e.] Compliance surveys performed after December 1, 1976 will include verification of 85-15% compliance under the criteria in this appendix for new enrollments effective on or after December 1, 1976. Item 10 on VA Forms 22-1936 and 22-1936A, Compliance Survey Worksheet for Students Pursuing Training Under Chapter 34 or 35, must be altered to delete the words "proprietary noncollege degree". Revision of these forms will be accomplished soon in accordance with the new provisions of PL 94-502.

[8. *85-15% Certifications on Enrollment Documents.* Once a school has computed and certified 85-15% compliance to the VA as required in paragraph 7a., all enrollment documents submitted subsequently must bear or have attached the individual 85-15% certification statement shown below.]

[a. VA Forms 29-1999 and 22-1999-1 are being revised to show the proper 85-15% certification statement. Availability of the revised forms cannot be predicted at this time.]

b. Until the revised enrollment documents become available, institutional certifying officials must use interim measures to show compliance with the law. The 85-15% certification statement currently shown on enrollment documents must be deleted and a signed certification worded as follows attached to each document certifying a new enrollment covering a period beginning on or after December 1, 1976: "It is hereby certified that for enrollments under chapter 34, on the date training began or the first lesson was sent to the student, not more than 85% of the students enrolled in the course, including this student, are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, the Veterans Administration under title 38 U.S.C., and/or by grants from any Federal agency, unless such payments have been waived by the VA for purposes of this requirement." (Note: This provision does not apply to persons pursuing courses under 38 U.S.C. 1691, farm cooperative courses, or courses offered on military bases solely for military personnel and their dependents if approved by the SAA in the State where the base is located.) Each statement should show the name and VA claim number of the student whose enrollment is being certified. The statement itself may be duplicated, but each statement must bear an original or acceptable facsimile signature of the appropriate school certifying official. [ ]

c. No student will be counted more than one time in any computation of an 85-15% ratio. If a student receives both VA or other countable benefits and noncountable or waived type of benefit, that student must be included in the countable (85%) portion of the ratio.

[9. *Recission.* Appendix H, dated November 22, 1976 to DVB Circular 20-76-84.]

RUFUS H. WILSON,
Chief Benefits Director.

NOTE.—DVBE distribution not required on appendixes E, F, and G of this circular.

[DVB Circular 20-76-84—Change 1 (Confirming Teletype Transmission), Jan. 7, 1977]

EXTENDED 85-15 PERCENT RATIO REQUIREMENTS

1. Continued difficulty with reporting requirements contained in the revision of appendix H has made further simplification necessary. This change provides for a waiver of 85-15% computations for most schools with nominal VA-supported enrollments. It also provides a temporary waiver which delays full implementation of the difficult BEOG and SEOG portions of computation requirements. Finally, the wording of the 85-15% certifications statement which will appear on individual enrollment documents has been altered to be consistent with the course or general certifications schools will be furnishing.

2. DVB Circular 20-76-84, appendix H, Revised, is changed as follows:

Page 3 paragraph 4: Following line 8, add:

"Important: Notwithstanding any type of waiver provided for below, station directors are authorized to waive 85-15% computations for institutions which certify that 35% or less of their enrollment receives Veterans Administration educational assistance (compute main campuses and branches separately). Such certifications must be provided to the VA on a continuing basis in accordance with the time limits shown in paragraph 7c. (Such waiver will not be granted for any course in which the percentage of VA-supported veterans enrolled exceeds 85%.) Station directors are responsible for taking forceful action to identify specific courses of study which may exceed 85% VA-supported enrollment even if such courses are offered by schools having 35% or fewer veterans in the total school population. All station directors will require full 85-15% ratio computations for such courses with extraordinarily disproportionate VA-supported enrollments to show compliance with the law. In addition, a temporary waiver is hereby granted to exclude counting recipients of BEOG (Basic Educational Opportunity Grants) and SEOG (Supplementary Educational Opportunity Grants) as federally supported students for purposes of 85-15% ratio requirements. This temporary waiver of the BEOG and SEOG computation requirements applies only to the 1976-1977 academic year ending June 30, 1977. After that date, computation and waiver provisions shown below relating to BEOG and SEOG will be in effect."

Page 9, paragraph 8b, lines 8 thru 11: Delete "on the date training began or the first lesson was sent to the student, not more than 85% of the students enrolled in the course, including this student," and insert "computation requirements (including allowable waivers) have been satisfied to show that not more than 85% of the students enrolled in this course".

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84—Change 2 (Confirming Teletype Transmission), Jan. 26, 1977]

EXTENDED 85-15 PERCENT RATIO REQUIREMENTS

DVB Circular 20-76-84, appendix H, Revised, is changed as follows:

Page 9, paragraph 8, line 5: After "below." add:

"Attachment of such individual certifications is not required if the school has qualified for a waiver of 85-15% computations on the basis of 35% or fewer students receiving VA educational benefits, and the station director has granted the waiver without reservation (see par. 4 above). If a school cannot qualify for this waiver, the individual certification statement must appear on or be attached to each enrollment document. In cases where a director withholds the 35% waiver from a specific course or courses offered by a school, enrollment documents for only such courses must bear or apply this individual certification exception properly, liaison representatives will furnish to the Adjudication Division a list of schools which have been granted a 35% waiver. The list must also show individual courses from which the 35% waiver has been withheld at the director's discretion."

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84—Appendix I (Confirming Teletype Transmission), Nov. 24, 1976]

RETENTION OF ADVERTISING, SALES AND ENROLLMENT MATERIALS

1. *Purpose.* This appendix provides instructions for implementing the provision of PL 94-502 which requires institutions to retain advertising, sales and enrollment materials.

2. *General.* PL 94-502 amends 38 U.S.C. 1796 effective December 1, 1976, to require all institutions approved for enrollment of eligible veterans and persons to maintain for a period of 12 months complete records and copies of all advertising, sales and enrollment materials used by or on behalf of the institution. This provision is intended to ensure compliance with the prohibition against erroneous, false, or misleading advertising, sales and enrollment practices.

a. Education liaison representatives will immediately notify all institutions of the new provision and emphasize that it applies to all materials utilized in any manner on or after December 1, 1976.

b. Records and materials to be maintained include (but are not limited to) direct mail pieces, brochures, printed literature used by salespersons, films, recordings, video and audio tapes disseminated through broadcast media or otherwise, material disseminated through print media, tear sheets, leaflets, handbills, fliers, and any sales or recruitment materials or manuals used to instruct sales personnel, agents, or representatives of the institution.

c. All records and materials retained under this provision must be available for inspection by authorized representatives of the State approving agency or the Veterans Administration.

d. In the absence of specific complaints or allegations against an institution, VA and SAA personnel need only spot check the retained records and materials during regularly scheduled compliance surveys and supervisory visits.

(1) Allegations of deceptive advertising, sales and enrollment practices will continue to be processed in accordance with the procedures outlined in DVB Circular 20–76–26.

(2) If any action has been taken against an institution regarding deceptive advertising, sales or enrollment practices, during the 12 months prior to a compliance survey, a 100 percent review of the materials and records retained by the school should be conducted during the survey.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20–76–84—Appendix J (Confirming Teletype Transmission), Nov. 26, 1976]

CONTINUATION OF WORK-STUDY AGREEMENT

1. *Purpose.* This appendix provides instructions for implementing the provisions of PL 94–502, pertaining to work-study agreements.

2. *General.* PL 94–502 changes provisions concerning eligibility and unscheduled terminations for eligible veteran-students participating in the work-study program. The new law allows a veteran-student to complete a work-study agreement in the event he/she ceases to be a full-time student prior to completion of such agreement.

a. Completion of a work-study contract is allowed if the veteran-student reduces his/her training time load to less than full time at any time subsequent to his or her signing the work-study agreement. A new contract is not needed since the student is completing the old contract.

b. If the student is scheduled to fulfill a work-study agreement during an enrollment break period because it cannot be fulfilled during the term in which contracted, it now becomes irrelevent whether the intended reenrollment for the following term is at a full-time rate. The same would apply even if the fulfillment of the agreement carries over to the following term. However, at that time, any subsequent contract would again require full-time pursuit of an education or training program at the time the student signs the new agreement.

c. If a student terminates training, he/she may be permitted to work out only those hours of unperformed service for which he/she received an advance payment.

RUFUS H. WILSON,
Chief Benefits Director.

NOTE.—Distribution of appendix I to this circular was limited to those activities directly affected.

[DVB Circular 20–76–84—Appendix K (Confirming Teletype Transmission), Dec. 1, 1976]

PUBLIC LAW 94–502 PROVISIONS RELATING TO CHAPTER 35 BENEFITS

1. *Purpose.* This appendix provides instructions on the implementation of the provisions of PL 94–502 which affect chapter 35 benefits.

2. *General.* PL 94–502 has brought about several changes in eligibility and entitlement determinations for eligible persons under chapter 35.

3. *New Provisions.* a. *Maximum Period of Entitlement.* The maximum period of entitlement is increased from 36 to 45 months effective October 1, 1976. The 45-month limit may be exceeded only in the following situations. (NOTE: There has been no change from the present procedures):

(1) No entitlement is charged based on a course(s) pursued by a spouse or surviving spouse under the special assistance for the educationally disadvantaged program (VAR 14237).

(2) Special restorative training is prescribed and an additional period is needed to complete such training (VAR 13300).

b. *Special Restorative Training.* When special restorative training is pursued, the computed monthly allowance is changed effective October 1, 1976. While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian is entitled to receive on behalf of such person a special training allowance computed at the basic rate of $292 per month. If the charges for tuition and fees applicable to any such course are more than $92 per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed $92 a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each $9.76 that the special training allowance paid exceeds the basic monthly allowance.

c. *Periods of Eligibility and Ending Dates.* There are also changes in the computation of periods of eligibility and ending date extensions effective October 1, 1976. For the purposes of this Subparagraph, no review of cases will be directed; however, any necessary adjustments will be made whenever the cases are reviewed in future routine processing.

(1) The ending date of chapter 35 benefits for a child, spouse or surviving spouse may be extended (not to exceed maximum entitlement) for 12 weeks or to the end of the course, whichever is less, for schools not operated on a quarter or semester system when the person is enrolled, and: (a) the veteran is no longer rated permanently and totally disabled; (b) the veteran is no longer listed as POW, MIA or Forcibly Detained; or (c) the spouse is divorced from veteran without fault on his or her part. (See title 38, U.S.C. sec. 1711.) No change has been made in the extension provisions already in existence for schools operated on a quarter or semester basis. these may still be extended to the end of the quarter or semester in the above situations.

(2) The ending date (delimiting date) of chapter 35 benefits for a child only may be extended (not to exceed maximum entitlement) to the end of the quarter or semester if the person is enrolled in an educational institution regularly operated on the quarter or semester system and the ending date ends during the quarter or semester. Also, if the child is enrolled in an educational institution operated on other than a quarter or semester system and the ending date occurs after a major portion of the course is completed, such ending date will be extended to the end of the course, or until 12 weeks have expired, whichever first occurs (title 38, U.S.C. sec. 1712).

(3) The method of determining the period of eligibility for children has also changed. The period of eligibility will now be eight years from the date of death or effective date of rating or notice of rating, whichever is applicable (if the event occurs between the eligible person's 18th and 26th birthdays) and also eight years from the date of first discharge or release from active duty if the eligible person served on active duty between the 18th and 26th birthdays. The basic termination date remains the 26th birthday. In addition, processing time will no longer be computed to extend the period of eligibility. When existing chapter 35 cases are processed in routine handling, the following modification will be made to Part III of VA Form 22–1994a, Determination of Basic Eligibility and Entitlement, and, if necessary, an 02V correction made to the master record (NOTE: 02V correction to the delimiting date for chapter 35 cases must be made using flexotype or SYCOR input until further notice. This does not affect original actions first establishing a chapter 35 delimiting date nor does it affect using VA Form 22–1997S, Education Award Code Sheet, to change a delimiting date on a chapter 34 case):

(a) When the termination date from item 15B or 15C of the VA Form 22–1994a is to be changed from 5 to 8 years from the applicable date, and processing time (item 16) had been added to the 5-year date, the processing time will first be deducted and then the 3 additional years will be added to the basic termination date. For example, if item 15B had been February 3, 1980, and processing time of 1 month, 8 days had been added previously, resulting in an extended termination date of March 11, 1980, then the 1 month, 8 days would be deducted before adding 3 years to the basic termination date. The result would be the new basic termination date, February 3, 1983. This date would then be used to correct the delimiting date in the master record by 02V correction.

(b) When the termination date is from item 15A of VA Form 22–1994a, no action will be taken to deduct processing time and no correction will be made to the delimiting date in the master record.

c. For original award or Certificate of Eligibility actions being taken after receipt of these instructions, any processing time (item 16 of VA Form 22–1994a) will not be used in determining the delimiting date for chapter 35 children claimants.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20–76–84—Appendix L (Confirming Teletype Transmission), Dec. 3, 1976]

Clock-Hour Measurement of NCD Courses

1. *Purpose.* This appendix provides detailed instructions for implementing the new provisions of 38 U.S.C. 1788(a), as amended by PL 94–502, pertaining to NCD clock-hour measurement.

2. *General.* PL 94–502 provides a new basis for clock-hour measurement of accredited NCD (noncollege-degree) courses approved under 38 U.S.C. 1775 and VAR 14253. This appendix also eliminates supervised study from clock-hour measurement of both accredited and nonaccredited NCD courses. The effective date of this provision is December 1, 1976.

3. *New Measurement.* For accredited NCD courses, 27 hours per week of attendance, is full time if shop practice is an integral part of the course. If theoretical or classroom instruction predominates, 22 hours per week of net instruction is full time. The following chart shows the breakdown of hours and training time based on the new measurement:

[In hours]

Training time	Accredited shop course	Accredited theory/class course
Full time	27	22
¾ time	20–26	16–21
½ time	13–19	11–15
Less than ½, more than ¼ time	7–12	6–10
¼ time or less	1–6	1–5

4. *Supervised Study.* Supervised study is generally a "study hall" in which students study or work on assigned homework with an instructor available to answer any questions. No time spent in supervised study, or the equivalent, is countable for clock-hour measurement of NCD courses, whether accredited or nonaccredited. Also, unsupervised study is never included for measurement purposes.

5. *Revised Approvals.* The approvals for all the courses, affected by this new provision must be reviewed and revised as appropriate.

a. The liaison representative will review all the approval folders to identify all NCD courses measured on a clock-hour basis. The following course approvals will be referred to the SAA (State approving agency) for revision based on the new measurement and the exclusion of supervised study: (1) All accredited NCD courses, and (2) Nonaccredited NCD courses for which the approval folder (course outline, catalog, bulletin, etc.) shows or indicates the possibility that hours of supervised study are included in the current approval.

b. The SAA will be requested to submit revised approvals, effective December 1, 1976, which show the required weekly hours for measurement purposes excluding supervised study. The SAA should be given until April 1, 1977, within which to revise the approvals.

c. The liaison representative will review the revised approval data received from the SAA to ensure that all the requirements of law and Veterans Administration Regulations have been met. A revised VA Form 22–1998b, Approval Information—Accredited NCD Courses or Nonaccredited Courses, will be prepared for each NCD course measured on a clock-hour basis when the approval is revised. A control will be maintained in the regional office to ensure that the revised approval data requested from the SAA is received for all affected courses by April 1, 1977.

6. *Award Adjustments.* When a revised approval is received which may result in either an increase or decrease in the training time for students at a particular school, a review must be made to ensure appropriate award action.

a. The liaison representative will request from each school a list of the names and file numbers of all VA education beneficiaries currently enrolled in each NCD course measured on a clock-hour basis requiring adjustment. If a school is unable to compile a list because of a large enrollment or other difficulty, the liaison representative will request from DPC Hines a VA Form 20-8270a, Education Master Record—Audit Writeout, for each beneficiary in each course.

b. If award action is necessary, the list or the VA Forms 20-8270a will be referred to the Adjudication activity. If an increase in training time is appropriate, an award will be prepared to increase benefits effective December 1, 1976. If a reduction is appropriate, an award will be prepared to decrease benefits effective the earliest of the following dates: (1) June 1, 1977, or (2) The starting date of the first enrollment period beginning on or after April 1, 1977.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84—Appendix M (Confirming Teletype Transmission), Dec. 10, 1976]

PROHIBITION OF EDUCATIONAL ASSISTANCE PAYMENTS FOR COURSES NOT COUNTED TO SATISFY GRADUATION REQUIREMENTS

1. *Purpose.* This appendix provides instructions for the implementation of the provisions of PL 94-502 which prohibit payment of educational benefits for auditing a course or for a course which is not used in computing graduation requirements, including any course from which the student withdraws, unless there is a finding of mitigating circumstances causing the withdrawal.

2. *General.* PL 94-502 amends title 38 U.S.C. 1780(a), to provide that effective December 1, 1976, no payment of educational benefits will be made to an eligible veteran or person for audited courses or courses for which the grade assigned is not used in computing graduation requirements. This includes prohibition of payments for courses from which the eligible veteran or person withdraws, unless the Administrator finds mitigating circumstances involved in the withdrawal.

3. *Definitions.* Proper implementation of these statutory provisions will be facilitated if the following concepts are used in determinations concerning benefit payments:

a. *Audited Courses:* Any course which a student attends with a prior understanding between school officials and the student that such attendance will not result in credit being granted toward graduation. Because no credit toward an educational objective can be earned for such a course, it is not properly a part of the student's approval educational program.

b. *Nonpunitive Grade:* Any grade assigned for pursuit of a course, whether upon completion of the course or at the time of withdrawal from it, which has the effect of excluding the course from any consideration in determining progress toward fulfillment of requirements for graduation. No credit toward graduation would be granted for such a grade, nor would there be any effect on other graduation factors imposed by school policy, such as a grade point average. A course for which a nonpunitive grade is assigned is thus equivalent to an audited course for purposes of advancement toward graduation.

c. *Punitive (Failing) Grade:* A grade assigned for pursuit of a course which indicates unacceptable course work and no credit granted toward graduation for that pursuit. Although this type of grade results in no credit, it is distinguished from a nonpunitive grade by the fact that it is considered in determining overall progress toward graduation in that a penalty is exacted on a school graduation requirement, such as grade point average. A course for which a punitive failing grade is assigned is not equivalent to an audited course because the grade is computed into a graduation requirement.

d. *Drop-Add Period:* A reasonably brief period at the beginning of a term (not to exceed 30 days) officially designated by a school for unrestricted enrollment changes by students.

e. *Mitigating Circumstances:* Circumstances which directly hinder eligible veteran's or person's pursuit of a course and which are judged to be out of the student's control. Following are some general categories of mitigating circumstances (this list is not all-inclusive):

(1) Serious illness of the eligible veteran or person.

(2) Serious illness or death in the eligible veteran's or person's immediate family.

(3) Immediate family or financial obligations which require a change in terms, hours, or place of employment which precludes pursuit of a course.

(4) Discontinuance of a course by a school.

(5) Active duty military service, including active duty for training.

(6) Withdrawal from a course or receipt of a nonpunitive grade upon completion of a course due to unsatisfactory work may be considered to be under mitigating circumstances if the student can demonstrate good faith pursuit of the course up to the point of withdrawal or completion and the student submits evidence that he or she applied for tutorial aid, consulted a Veterans Administration counselor, or consulted a school academic counselor or advisor regarding an attempt to remedy the unsatisfactory work before withdrawal or completion.

4. *Payment and Termination Actions.* Depending on the type of grade assigned, the point during a term when a student withdraws, and/or the presence of mitigating circumstances, payment or award termination actions will be determined as follows:

a. No VA educational assistance will be paid for an audited course. This is consistent with long-standing VA policy, the only difference being that the policy is now expressed in the statute. Schools should never certify audited courses to the VA for payment of benefits. Such certifications, if they occur, will be considered false for purposes of considering school liability for overpayments.

b. If an eligible veteran or person withdraws from a course after the institution's drop-add period, receives a non-punitive grade for that course, and mitigating circumstances are not found, benefits for that course will be terminated effective the first date of enrollment or December 1, 1976, whichever is later.

c. If an eligible veteran or person completes a course but receives a nonpunitive (no credit or no failure) grade, and mitigating circumstances are not found, benefits for that course will be terminated effective the first date of enrollment or December 1, 1976, whichever is later.

d. As noted in subparagraphs a and b above, no overpayments will be created in accordance with these provisions for any period prior to December 1, 1976. School liability provisions will not be applied to overpayments resulting from withdrawals or nonpunitive grades unless a school fails to report changes in student status timely in accordance with VA regulations and administrative requirements.

e. If an eligible veteran or person withdraws from a course before the end of an institution's drop-add period regardless of circumstances, withdraws from a course and mitigating circumstances are shown, or withdraws from a course under circumstances such that a punitive grade is or will be assigned for that course reduction, of benefits will be effective at the end of the month or the end of the term in which the withdrawal occurs, whichever is earlier. If the eligible person or veteran terminates all courses under these same conditions, termination of benefits will be effective the last date of pursuit. Last date of pursuit in a residence course is the last date of attendance.

f. If an eligible veteran or person terminates a correspondence, flight, farm cooperative, cooperative, or job-training course, termination of benefits will be on the following dates:

(1) Correspondence Training: Date last lesson serviced.

(2) Flight Training: Date last instruction received.

(3) Farm Cooperative Training: Date of last classroom attendance.

(4) Cooperative Training: Date of training.

(5) Job Training: Date of last training.

5. *Mitigating Circumstances—Reporting, Development, and Award Actions.* As indicated previously, the involvement of mitigating circumstances in a student's termination or reduction of training will affect adjustment of the award of benefits.

a. All schools will be encouraged to show mitigating circumstances, provided this information is known, and the grade which is or will be assigned for the course(s) involved, when reporting training time reductions or terminations. Item 3C, Remarks, on VA Form 22–1999B or 22–1999B–1, Notice of Change in Student Status—Institutional Courses Only, will be used for this purpose. It should be pointed out to schools that their cooperation in this regard will avoid retroactive termination of benefits, if there were satisfactory mitigating circumstances, to the beginning of the course(s) from which withdrawn, and thus aid the veteran by maintaining proper benefit payments.

b. If the school shows acceptable mitigating circumstances, benefits will be reduced at the end of the month in which the reduction occurs if the student continues a part of his/her course, or terminated effective last date of pursuit when there is an interruption or discontinuance of all unit subjects with no further action required.

c. If mitigating circumstances are not shown on the notice of withdrawal or termination, reduction will be at end of month in which reduction in training occurs or termination of the award will be effective last date of pursuit, and the following further actions will be required:

(1) A form or dictated development letter will be sent to the student (the computer-generated reduction or termination letter will be allowed to issue). The development letter will indicate the action taken and explain that the student will receive a computer-generated letter showing months of entitlement remaining, amount overpaid (if any), and information concerning repayment and waiver request. The student will be invited to give his or her statement regarding possible mitigating circumstances (not further specified) involved in the reduction or termination of training. Finally, the student will be advised that if no response is received by the VA within 30 days, reduction or termination of benefits will be made effective at the beginning date of the course(s) involved, resulting in creation of an overpayment or additional overpayment.

(NOTE.—A new VA Form Letter will be developed for this purpose. Until it is available, modified current form letters or dictated letters must be used.)

(2) Each case developed in this manner will be placed under pending end product control for 30 days using end product code 220. (NOTE: A one-time code 220 may not be recorded in addition to establishing the pending 220 control.) If no response is received during this period, or if the student's claim of mitigating circumstances is not judged to be satisfactory, amended award action will be taken to reduce or terminate benefits effective the beginning date of the course(s) involved and final action recorded on the end product code 220. The computer-generated letter will be allowed to issue to explain remaining entitlement, amount of overpayment, etc., but a form or dictated letter must also be issued to explain the reason for retroactive termination or reduction of benefits. If mitigating circumstances are established, final action will be recorded on the pending end product code 220.

(3) The potential abuse of the provision for mitigating circumstances in order to obtain benefits otherwise not payable is obvious. Therefore, if a pattern of withdrawals or terminations develops with mitigating circumstances shown or claimed in each instance, the student will be required to submit a signed statement of circumstances before any further favorable judgments can be made. Other corroborative evidence, such as statements from employers or physicians, may also be required if deemed necessary. For purposes of this provision, a pattern of withdrawals or terminations will exist upon the third occurrence within a term or the third occurrence in consecutive terms.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20–76–84—Appendix N (Confirming Teletype Transmission), Dec. 13, 1976]

DEFINITIONS—INSTITUTIONS OF HIGHER LEARNING AND STANDARD COLLEGE DEGREE

1. *Purpose.* This appendix provides instructions for implementing the provisions of PL 94–502 which provide definitions of the terms "institution of higher learning" and "standard college degree."

2. *New Definitions.* Effective the date of enactment, October 15, 1976, PL 94–502 amended 38 USC 1652 to include definitions of the terms "institution of higher learning" and "standard college degree." The revised 38 USC

1652(g) follows the general wording of the definition of a "standard college degree" as stated in VAR 14200(E). The revised 38 USC 1652(f) defines an institution of higher learning not previously defined in regulations for course approvals and measurement. 38 USC 1652(f) provides: "For the purposes of this chapter and chapter 36 of this title, the term 'institution of higher learning' means a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. Such terms shall also include a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree."

a. Prior to PL 94–502, the term "institution of higher learning" was not specifically defined by either law or regulation. However, pursuant to PG 21–1, section M–10, par. 4, a school offering a "standard college degree" was considered to be an institution of higher learning by nature of this definition. Since the legislative intent of 38 USC 1652(f) was not to change existing Veterans Administration policy, if no degree-granting power rests with a State education authority but there is a State law which permits schools to be licensed or chartered as degree-granting institutions, the school may be recognized as an institution of higher learning if:

(1) The school has been licensed or chartered by the appropriate State authority as a degree-granting institution; and

(2) The school is a recognized candidate for accreditation as a degree-granting school by one of the recognized national or regional accrediting associations.

b. Course approvals should be reviewed to determine whether all presently approved degree courses are in fact being offered by an "institution of higher learning."

(1) If the school is not an institution of higher learning, the "degree" is not an acceptable educational objective within the meaning of VAR 14230(A), and course approval will have to be revised to reflect an acceptable professional or vocational objective under VAR 14230(B).

(2) If an acceptable objective cannot be shown (e.g., for a general education program) it will be necessary for the State approving agency to withdraw approval. In most other cases, the revised objective will tend to be vocational rather than professional, subjecting the course to the vocational placement requirements of VAR 14252(G).

(3) Also, if applicable, the school's facility code should be changed. In addition, since the course no longer leads to a "standard college degree" collegiate credit-hour measurement under VAR 14272 is not in order. (A prerequisite for applying VAR 14272(B)(3) is that the course be offered by an institution of higher learning.) Consequently, measurement for payment must be based on clock hours per week or credit hours under VAR 14270, footnote 8. (A separate appendix will be issued shortly for other measurement provisions added by PL 94–502.)

3. In regard to the 2-year rule, neither such a new school nor a newly established branch or extension of an existing school would qualify for the exception provided by VAR 14251(A)(4) for a course offered by a nonprofit school of college level which is recognized for credit toward a standard college degree. (See appendix C of this circular for other 2-year rule provisions added by PL 94–502.)

4. The SAA and any schools which may possibly be affected by 38 USC 1652(f) will be notified immediately. The SAA will be requested to review approvals under these guidelines. If withdrawal of course approval or reduction in training time is indicated, current approvals and measurement standards may be continued through the end of the 1977 spring term. This period will allow schools an opportunity to qualify as "institutions of higher learning" while protecting the interest of eligible students already enrolled for the standard academic year. However, all course approvals and awards for the ensuing summer term will reflect these guidelines.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84—Appendix O, Dec. 17, 1976]

UNSATISFACTORY PROGRESS

1. *Purpose.* This appendix provides instructions for implementing the Public Law 94-502 provision pertaining to unsatisfactory progress under chapters 34 and 35.

2. *General.* PL 94-502 amends 38 U.S.C. 1674 and 1724 effective December 1, 1976, to expand the concept of unsatisfactory progress to include those students not progressing at a rate that will permit graduation within the approved length of the course, based upon the training time paid by the VA (Veterans Administration). This provision may be waived if there is a VA finding of mitigating or extenuating circumstances. Current provisions for determining satisfactory progress, such as a GPA (grade point average) or average grade requirement, remain in effect.

3. *Approved Length of Course.* a. The length of time required to complete a course depends on the rate of pursuit. A student pursuing a bachelor's degree program at full time and taking 15 credit hours per terms can normally be expected to graduate in a 4-year period. However, a student taking 12 credit hours will normally require 5 years and a student taking 6 credit hours, 10 years.

b. The number of credit hours required for graduation must be considered in determining the length of a course. For instance, 60 semester hours are normally required for an associate degree and 120 semester hours for a bachelor's degree.

c. When a student is pursuing a course at various training times (e.g., half time for one term and full time for the next), the approved length of the course is determined by the credit hours required for graduation. To determine the number of terms remaining at any point during a student's program, the following procedures should be used:

(1) Determine the number of credit hours remaining for graduation by subtracting the hours completed (excluding hours for which nonpunitive grades are assigned) from the hours required.

(2) Then divide this figure by the minimum number of full-time hours (12, 13 or 14 depending on the school) to determine the number of terms remaining based on full-time enrollment.

(3) The student must be able to graduate within that number of terms in order to complete the program in the approved length of time.

Example: Hours required for graduation=120; Full-time requirement=12; Hours completed=84. 120 hours required—84 hours completed=36 hours remaining. 36 hours remaining÷12 hours=3 terms remaining.

4. *Extension of Training.* a. When a student must extend his or her training beyond the approved length of the course to be able to meet the requirements of graduation, progress is considered unsatisfactory in the absence of mitigating circumstances. This is true even though the student otherwise meets the regularly prescribed standards of the school, including maintaining the minimum passing grades or required GPA or average grades.

b. An accumulation of courses that are not successfully completed, based on the policies of the school, generally leads to an extension in length of training, since such courses must be repeated or otherwise made up. Courses that are not successfully completed include those for which a failing grade ("F" or the equivalent) is assigned or for which a grade below that required under school policy ("D" when the school requires a "C") is assigned.

c. All courses for which benefits are payable must be considered in a determination of unsatisfactory progress. Courses not successfully completed for which a nonpunitive grade is assigned will not be considered in such a determination. (See DVB Circular 20-76-84, appendix M.) A nonpunitive grade is one that has no effect in determining whether graduation requirements are met. A nonpunitive grade does not contribute to the accumulation of credits for graduation nor is it computed into a GPA or other measure of progress.

5. *School Determination.* a. A determination as to whether an extension in the length of the course will be required must be made by the school each time a course is not completed successfully. Such a determination must include the following variables: (1) The total credit hours needed to graduate, including the number to be repeated or otherwise made up; (2) the number of terms

remaining based on the approved length of the course and the student's rate of pursuit; and (3) the maximum credit-hour load allowable per term based on school policy.

b. When the school determines that a student's progress is unsatisfactory under this provision, their report to the VA should indicate that unsatisfactory progress is due to an extension of training beyond the approved length of the course. Any circumstances, which the school feels the VA should consider as possible mitigating circumstances, should also be shown.

c. The following examples show determinations based on transcripts in which each unit subject represents 3 hours of credit attempted. No mitigating circumstances are shown.

Example 1: In this example the "F" grades are considered as punitive grades by the school. If they were nonpunitive, the school should report a reduction in training load at the end of each semester, in which case an overpayment would be created and the "F's" would not be considered in determining progress.

	Grade
Semester 1:	
Subject:	
English 101	A
History 170	C
Math 101	F
Economics 101	C
Semester 2:	
Subject:	
English 102	A
Political science 101	B
Math 111	D
Physics 120	F
Semester 3:	
Subject:	
English 201	A
Philosophy 190	B
Biology 101	C
Chemistry 101	F

Cumulative GPA=2.083 (on a 4-point system).
Credits earned=27 semester hours.
Credits needed for AA degree=60 semester hours.

The approved length of the course at 12 hours per semester is 5 semesters. The student lacks 33 semester hours for graduation and has 2 semesters within which to graduate in the approved time. If the school will permit the student to enroll for 17 hours per semester, he or she could possibly graduate in the two remaining semesters. Therefore, progress would be considered satisfactory. (NOTE.—The student must reenroll in enough hours in semester 4 to allow graduation within the two remaining semesters. Otherwise, at the beginning of semester 4 the school will report that the student's progress is unsatisfactory.) However, if the maximum hours permitted by the school are 15, unsatisfactory progress should be reported by the school at the end of semester 3.

Example 2: The student in example 1 reenrolls in semester 4 and receives the following grades:

	Grade
Subject:	
English 202	A
English 270	A
Psychology 101	B
Statistics 120	F
Business 190	F
Economics 102	F

Cumulative GPA=2.0 (on a 4-point system).
Credits earned=36 semester hours.

At the end of semester 4 the student lacks 24 semester hours for graduation. Since this student cannot possibly complete 24 hours in the one remaining semester, an extension in the length of the course is needed to meet the requirements for graduation. The need for such an extension constitutes unsatisfactory progress and should be reported by the school at the end of semester 4.

Example 3: The following transcripts include nonpunitive "W" grades for which benefits are not payable:

Subject:	*Grade*
Semester 1:	
English 101	W
History 170	C
Math 101	B
Physics 120	C
Semester 2:	
English 101	W
Biology 101	C
Math 120	B
Semester 3:	
English 101	W
Philosophy 170	F
Chemistry 101	B
Semester 4:	
Math 220	A
Chemistry 102	B
Political science 101	D
English 001	F
Semester 5:	
Statistics 201	A
Psychology 120	W
Math 230	B
Philosophy 180	F

Cumulative GPA=2.143 (on a 4-point system).
Credits earned=33 semester hours.
Credits needed for AA degree=60 semester hours.

Since this student has been paid based on various training times, the approved length of the course is determined by the credit hours required for graduation and must be computed as if the student successfully completed all the courses for which benefits are payable. (All grades of "W" are excluded since they are nonpunitive grades.) The student completed 42 semester hours (the 9 hours failed plus the 33 hours earned). The 42 semester hours represent the number of hours that should have been successfully completed to allow the student to graduate within the approved length of the course. The student would then need 18 semester hours (60 hours required minus 42 hours completed), and could graduate within two semesters (18 hours÷12 hours full time=1.5 semesters). The student actually lacks 27 semester hours to graduate which could be completed in 2 additional semesters if the school permits 14 hours per semester. The student, therefore, is progressing satisfactorily.

Example 4: The student in example 3 enrolls in semester 6 and receives the following grades:

Subject:	*Grade*
Semester 6:	
Sociology 170	W
History 201	F
Statistics	A
Political science	W
Economy 120	W

Cumulative GPA=2.125 (on a 4-point system).
Credits earned=36 semester hours.

The student completed 48 semester hours (the 12 hours failed plus the 36 hours earned). The AA degree should be reached in one semester of 12 hours (60 hours required minus 48 hours completed). Since more than one semester is needed to meet the actual remaining requirements (24 semester hours), progress is considered unsatisfactory.

6. *VA Determination of Mitigating Circumstances.* a. A student is considered to be making satisfactory progress in the above situations if there is an Adjudicative determination of mitigating or extenuating circumstances. Mitigating circumstances include, but are not limited to the following:

(1) Personal illness.

(2) Illness or death in the immediate family.

(3) Geographical transfer or a change in hours or conditions of employment.

(4) Financial emergency.

(5) Failure to satisfactorily complete a deficiency or remedial course without fault.

(6) Active duty military service, including active duty for training.

(7) Any other circumstances beyond the student's control which hampers pursuit of a course.

b. If a claim of mitigating circumstances is received from a student or if the school notice indicates possible mitigating circumstances, the Adjudication activity will follow the procedures outlined below:

(1) When the information concerning mitigating circumstances is not sufficient to make a determination, development will be required and, if there is a running award, benefits will be suspended. The circumstances which are claimed to have caused the unsatisfactory progress will be developed by means of a dictated letter to the student requesting a statement explaining the extenuating circumstances. The student will also be advised of the reason for the suspension of benefits if benefits were suspended and advised that if the requested statement is not received in 30 days, it will be necessary to terminate the award on the basis of unsatisfactory progress.

(2) If it is determined that mitigating circumstances exist, benefits will be resumed, if previously suspended, and the school will be notified of the course(s) which will be disregarded, because of the mitigating circumstances, in any future determination of unsatisfactory progress.

(3) If it is determined that no mitigating circumstances exist, benefits will be terminated, if not already in a terminated status, and the student will be notified by FL 22-337, unless an application (VA Form 22-1995, 22-5495 or 22-5495W) has already been submitted. In that instance, the case will be referred to the Counseling activity and the student will be notified by dictated letter of the termination and will be advised that a counseling appointment will be scheduled.

7. *Unsatisfactory Progress Reported Without Mitigating Circumstances.* When unsatisfactory progress is reported without any indication of mitigating circumstances, the Adjudication activity will terminate benefits if there is a running award. The student will be advised by dictated letter (or FL 22-337) in which the following sentence (or the equivalent) will be included: "If you feel that there are extenuating circumstances surrounding your unsatisfactory progress, you should submit a statement explaining those circumstances.

8. *Counseling.* If educational benefits are terminated due to a determination of unsatisfactory progress, VA counseling is required before benefits may be reinstated even if the student continues in the same course at the same school (see VAR 14278). If the VA counseling psychologist determines that the cause of the unsatisfactory progress has been removed and that the program that the beneficiary proposes is suitable to his or her aptitudes, interests and abilities, benefits may be reinstated effective the date such conditions were met as determined by the counseling psychologist, or the date of reentrance, whichever is later. The effective date may be a future date, date of the counseling session or a retroactive date, depending on the circumstances in the individual case.

9. *Change of Program.* A revision of a program which results in an extension of time to be able to meet the requirements of graduation is considered a change of program. Unsatisfactory progress is not to be reported when an extension of training is due solely to such a change of program. However, if progress in the initial program is unsatisfactory, a change of program may not be approved in the absence of VA counseling (see VAR 14234(B)).

10. *Change of School.* If a change of school will result in an extension to the student's program, development should be undertaken to determine if a

change of program should be charged or if progress at the first school was unsatisfactory.

11. *Effective Date.* This change affects all enrollment periods beginning on or after December 1, 1976. Unsatisfactory progress detreminations under this change will be based on the length of time (or number of credit hours) required for graduation as of the first enrollment period beginning on or after December 1, 1976. Enrollment periods prior to that are not for consideration under this change.

12. *Form Letters.* New VA form letters will be developed to fit the situations outlined in paragraphs 6 and 7 above. Until they are distributed to regional offices, it will be necessary to use dictated letters or modified FL's 22-337.

RUFUS H. WILSON,
Chief Benefits Director.

[DVB Circular 20-76-84—Appendix P, Feb. 1, 1977]

MISCELLANEOUS PROVISIONS OF PUBLIC LAW 94-502

1. *Purpose.* This appendix provides instructions for implementing various provisions of PL 94-502 which have not been covered elsewhere. This appendix also provides rate tables showing rates payable under this law for chapters 34 and 35 beneficiaries.

2. *Ending Date—Chapter 34 Eligibility.* PL 94-502 establishes final dates beyond which active duty service will no longer establish eligibility to chapter 34 educational assistance.

a. The basic ending date is December 31, 1976. Individuals entering service after December 31, 1976 (with limited exceptions) have no eligibility to benefits under chapter 34. Basic eligibility, therefore, is based on those periods of active duty, any part of which occurred after January 31, 1955 and before January 1, 1977.

b. The exception mentioned in subpargaraph above applies to a person who prior to January 1, 1977, enlists in or is assigned to a reserve component under a DEP (Delayed Enlistment Program) or DCAD (Delayed Call to Active Duty) and subsequently serves on active duty for a continuous period of 181 days, any part of which occurs on or before January 1, 1978, and is discharged or released from active duty under conditions other than dishonorable. Such a person would be entitled to chapter 34 educational assistance. When the period of active duty is less than 181 days, eligibility to chapter 34 educational assistance may be established if the person is discharged or released from active duty due to a service-connected disability.

3. *Ending Date Chapter 34 Entitlement Computation.* a. The ending date for computing an otherwise eligible person's entitlement to chapter 34 educational assistance shall be the date of such person's first discharge or release from active duty after December 31, 1976, for any person serving on active duty on December 31, 1976, or any person entitled to chapter 34 benefits due to enlistment in a DEP or DCAD program.

b. The phrase *first discharge or release* as used above means the first such date a person is eligible for complete separation from service (i.e., first enlistment period ending on or after January 1, 1977) even though said person may reenlist for subsequent service on the same date.

4. *Final Cutoff Date—Chapters 34 and 36 Benefits.* No educational assistance allowance may be afforded under chapter 34 or 36 after December 31, 1989.

5. *Explanation of DEP (Delayed Enlistment Program) and DCAD (Delayed Call to Active Duty).* a. The DEP and the DCAD are programs whereby individuals enlist in or are assigned to a reserve component and subsequently enter active duty in the Armed Forces or the Public Health Service. (NOTE: The National Oceanic and Atmospheric Administration does not have such a program.) Normally, under these programs, a person may delay his/her entry onto active duty for 180 to 270 days up to a maximum of 365 days from the time of entering into the enlistment agreement. Although in certain instances extensions may be granted, the person must enter into the DEP or DCAD agreement prior to January 1, 1977, and begin serving on active duty on or before January 1, 1978, in order to have potential chapter 34 eligibility.

b. If a claimant's application for chapter 34 educational assistance and/or the DD Form 214, Armed Forces of the United States Report of Transfer or

Discharge (Public Health Service uses PHS Form 1867), show a basic EOD (Entered on Active Duty) date subsequent to December 31, 1976, and prior to January 2, 1978, a careful review must be undertaken to determine possible eligibility as outlined in paragraph 2b of this appendix. If the DD Form 214 or application indicates an enlistment or assignment date to a reserve component prior to January 1, 1977, and a subsequent EOD prior to January 2, 1978, then verification from the appropriate Service Department or the Public Health Service concerning the applicant's enlistment under a DEP or DCAD program must be undertaken, unless sufficient supporting documentation is already of record.

c. Whenever development is necessary a VA Form 07-3101, Request for Information, will be completed and forwarded to the appropriate records center requesting verification of the applicant's enlistment under a DEP or DCAD. The VA Form 07-3101 should state the following: "Request verification of enlistment under (DEP (Delayed Enlistment Program) or DCAD (Delayed Call to Active Duty)) to include date of enlistment or assignment to a reserve component, the first subsequent EOD and RAD dates and the character of discharge."

d. Development will not be necessary if a copy of the enlistment agreement under DEP or DCAD is of record. For this agreement the Department of Defense uses DD Form 4C, Enlistment or Reenlistment Agreement (page 4 of which contains the DEP data) and Public Health Service uses PHS 4426, Memorandum of Understanding Concerning Participation in Delayed Call to Active Duty. To be acceptable without additional development, the enlistment agreement must clearly show the date the agreement was entered into and be supported by a DD Form 214.

6. *Additional Conditions for Approval of an Accredited Course Under 38 U.S.C. 1775.* a. In addition to the existing requirements for approval of a course as accredited, schools must now submit to the State approving agency a certification that the school's catalog or bulletin is true and correct in content and policy. This certification must be made by an authorized official of the school. The catalog or bulletin must specifically state the school's progress requirements for graduation and, at the minimum, must include the following information:

(1) The institution's policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution);

(2) The minimum grades considered satisfactory;

(3) The conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution;

(4) The conditions of reentrance for those students dismissed for unsatisfactory progress;

(5) A statement regarding the progress records maintained by the institution and furnished to the student; and

(6) The institution's policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.

b. Liaison representatives will notify all schools offering accredited courses of this added provision of 38 U.S.C. 1775. Catalogs or bulletins previously published will not be affected by this requirement. However, the next catalog or bulletin published by the school must meet these requirements and the required certification must be submitted with the catalog or bulletin.

c. PL 94-502 also amends 38 U.S.C. 1775 relating to the basic approval of accredited courses, to codify institutional responsibility for recordkeeping and enforcing their standards of progress. This provision does not add any additional approval requirements but states in statutory language the standards of progress requirements currently contained in VAR 14253(D)(1) and (3). The statute now requires that SAA's must find that adequate records are kept by the educational institution to show the program of each eligible person or veteran and must include as a minimum the following requirements:

(1) Adequate records as prescribed by the SAA relating to progress or grades; and

(2) Adequate records showing satisfactory standards relating to progress and conduct are enforced.

RUFUS H. WILSON,
Chief Benefits Director.

TABLE I.—CHAPTER 34 EDUCATIONAL ASSISTANCE RATES (NEW RATES AND RECENT HISTORICAL RATES)

Type of course/training	Monthly rates for veterans												Monthly rates for service personnel [1]		
	Public Law 93-508 (effective Sept. 1, 1974)				Public Law 93-602 (effective Jan. 1, 1975)				Public Law 94-502 (effective Oct. 1, 1976)				Public Law 93-508	Public Law 93-602	Public Law 94-502
	No dependents	1 dependent	2 dependents	Additional dependent	No dependents	1 dependent	2 dependents	Additional dependent	No dependents	1 dependent	2 dependents	Additional dependent	Effective Sept. 1, 1974	Effective Jan. 1, 1975	Effective Oct. 1, 1976
Institutional:															
Full time	$270	$321	$366	$22	(2)	(2)	(2)	(2)	$292	$347	$396	$24	$260	$270	$292
¾ time	203	240	275	17	(2)	(2)	(2)	(2)	219	260	297	18	195	203	219
½ time	135	160	182	11	(2)	(2)	(2)	(2)	146	174	198	12	130	135	146
Less than ½ but more than ¼ time	130				$135				146				130	135	146
¼ time or less [1]	65				68				73				65	68	73
Cooperative: Full time only	217	255	289	17	(2)	(2)	(2)	(2)	235	276	313	18			
Apprenticeship/on-the-job training:															
1st 6 mo	189	212	232	9	196	$220	$240	$10	212	238	260	11			
2d 6 mo	142	164	184	9	147	171	191	10	159	185	207	11			
3d 6 mo	95	117	137	9	98	122	142	10	106	132	154	11			
4th and any succeeding 6 mo	47	70	90	9	49	73	93	10	53	79	101	11			
Farm cooperative:															
Full time	217	255	289	17	(2)	(2)	(2)	(2)	235	276	313	18			
¾ time	163	191	218	13	(2)	(2)	(2)	(2)	176	207	325	14			
½ time	109	128	145	9	(2)	(2)	(2)	(2)	118	138	157	9			
Correspondence	Entitlement charged at rate of 1 mo for each $260 paid.				Entitlement charged at rate of 1 mo for each $270 paid.				Entitlement charged at rate of 1 mo for each $292 paid.				Entitlement charge the same as for vets. $260	$270	$292
Flight	do.				do.				Same entitlement charge as Public Law 93–602.				Entitlement charge the same as for vets. $260	$270	$270

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[1] The monthly rate for service personnel or training at less than ½ time but more than ¼, or ¼ time or less may not exceed the monthly pro rata cost of the course as specified in VA regulation 14136(B), or the rate listed here, whichever is the lesser.

[2] Same rates as Public Law 93-508.

TABLE II.—CHAPTER 35 EDUCATIONAL ASSISTANCE RATES[1] (NEW AND RECENT HISTORICAL RATES)

Type of course/training	Public Law 93-508 (Effective Sept. 1, 1974)	Public Law 93-602 (Effective Jan. 1, 1975)	Public Law 94-502 (Effective Oct. 1, 1976)
Institutional:			
Full time	$270	$270	$292
¾ time	203	203	219
½ time	135	135	146
Less than ½ time but more than ¼ [2]	130	135	146
¼ time or less [2]	65	68	73
Cooperative: Full time only	209	217	235
Farm cooperative:			
Full time	217	217	235
¾ time	163	163	176
½ time	109	109	118
Apprenticeship/on-the-job-training:			
1st 6 mo	189	196	212
2d 6 mo	142	147	159
3d 6 mo	95	98	106
4th and any succeeding 6 mo	47	49	53
Special restorative (full time only) plus accelerated charges	260	270	292
Cost of tuition and fees in excess of (per month)	82	85	92
Entitlement reduced 1 D for each	8.69	9.02	9.76
Correspondence for spouses and surviving spouses only (Jan. 1, 1973)	[3] 260	[3] 270	[3] 292

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[1] If a program of education is pursued by an eligible person at an institution located in the Republic of the Philippines the educational assistance allowance shall be paid at a rate in Philippines pesos equivalent to $0.50 for each dollar (VAR 14137(D)).

[2] The monthly rate for training at less than ½ time but more than ¼ time, or at ¼ time or less, may not exceed the monthly prorata cost of the course as specified in VA Regulation 14137(B), or the rate listed here, whichever is the lesser.

[3] Entitlement charged at the rate of 1 mo for each amount paid as shown.

[DVB Circular 20–77–24 (Confirming Teletype Transmission), Mar. 18, 1977]

CHANGES TO PREPAYMENT, ADVANCE PAYMENT AND RELATED PROCEDURES

1. *General.* This circular describes changes to the prepayment and advance payment procedures brought about by Public Law 94–502. (See DVB Circular 20–76–84.) It also provides instructions on related subjects including confirmed enrollments, end of full course certifications, interval payments, summer enrollments, computer-generated reenrollment forms, special payments, April check stuffer and required liaison actions. Enrollments with effective dates on or after June 1, 1977, may now be processed. Instructions for chapter 31 will be issued at a later date.

2. *End of Prepayment.* Regular monthly benefits will no longer be prepaid at the beginning of each month after May 1977. This means that regular monthly checks issued on or after June 1, 1977, will represent payment for the preceding month rather than for the current month. The regular monthly checks for June will not be issued under the new system until July 1. Under most circumstances, students will not receive a check in June of this year.

3. *Advance Payment.* Effective June 1, 1977, the law provides that advance payment may not be made unless the veteran or eligible person requests such payment and the Veterans Administration finds that the educational institution has agreed to and can satisfactorily carry out the advance payment provisions of the law.

a. All affected schools in your area should be advised immediately by letter of the new requirements for advance payment listed in subparagraphs b and c below which apply to enrollments with beginning dates on or after June 1, 1977. The letter should request each school to state in writing whether or not they wish to receive advance payments. A school that agrees to receive advance payments will be asked to certify in their reply that they can satisfactorily carry out the advance payment provisions in 38 U.S.C. 1780(d)(5)(B) and (C), and (6). (These pars. will be quoted in the letter to the schools.) A response will be requested within 30 days. A 30-day control will be established and a followup letter will be sent to any school that does not reply within 30 days to the first letter. The responses will be filed in the school approval file, and a listing for the Adjudication and Counseling and Rehabilitation activities will be prepared showing those schools which have declined to participate in the advance payment program (either expressly in writing or by failure to respond to the first letter within 60 days). Any enrollment certifications properly requesting advance payment, timely received and otherwise in order will be honored unless there is a specific statement in the approval file from the school that they decline to participate in the advance payment program or the school fails to reply within 60 days to the first letter from the regional office.

b. The requirements for advance payment are:

(1) The enrollment must be for a school course for at least half-time training;

(2) The school must agree to receive and process the advance payment;

(3) The student must specifically request advance payment on the enrollment certification or the enrollment certification portion of the application form;

(4) The enrollment certification must be received by the VA at least 30 days but not more than 120 days in advance of registration; and

(5) The enrollment must begin at least one full calendar month after the student's prior term (for example, the student's prior term ended in May; advance payment would be in order for enrollment beginning in July since June is a full calendar month).

c. Pending revision of the application, enrollment and reenrollment certification forms (e.g., VA Forms 22–1990, 22–1999, 22–1999–1), advance payment may be requested by entering "I request advance payment" in the remarks section of the enrollment certification, and by having the student enter his or her signature and the date below this request.

d. If advance payment is properly requested and timely received in the VA but for some reason cannot be processed in time for advance payment, Adjudication must notify the student and the school that regular payment will be issued instead of advance payment and the reason why. Enrollments in this category requiring confirmation (see par. 4a below), must be confirmed by telephone prior to an award action.

e. If advance payment is improperly requested or received too late for processing, the school will be advised of the problem by the Liaison activity. The student will be informed by Adjudication Division that regular payment will be made instead of advance payment and the reason why. Enrollments in this category requiring confirmation (see par. 4a below) will either be returned to the school or held and confirmed by telephone prior to award action.

f. If a station Director determines that a school cannot satisfactorily carry out advance payment provisions, the procedures in M22–2, part IV, chapter 8, paragraph 8.01d, will be applied.

4. *Confirmed Enrollments.* a. An enrollment certification is considered to be confirmed if it is signed and dated on or after the beginning date certified. Unless advance payment is requested, confirmed enrollments will be required for all fall enrollments and reenrollments; all first enrollments at a particular school; and all other enrollments except where the student was enrolled for the preceding term at the same school.

Examples: (1) Advance payment is requested for any term: Confirmed enrollment certification not required as confirmation will be obtained upon delivery of check; (2) A student who does not request advance pay enrolls for the Spring term but did not attend the preceding Fall term at the same school: Confirmed enrollment required before award is transmitted to DPC Hines; (3) A student enrolls for summer school and was enrolled in the preceding Spring term at that school: Confirmed enrollment will not be required as this type of case will be considered an extension of the previous enrollments within the maximum allowable enrollment period. (See par. 5a below.)

(NOTE.—When advance payment is requested but not issued as described in par. 3d and e above, the regional office must contact the school and confirm the enrollment prior to award action unless the enrollment is for other than a fall term and the student was enrolled in the preceding term at the same school.)

b. Schools should be cautioned not to submit non-advance-payment enrollments requiring confirmation prior to the beginning date certified. If such unconfirmed enrollments are received they will be confirmed by telephone call to the school or returned to the school, and the school will be requested to resubmit the documents when they can be redated and submitted as confirmed enrollments.

c. For institutions of higher learning, it should be noted that the beginning date certified should be the registration date or the date the student is required to report in advance of registration, but not earlier than 14 days prior to the start of classes nor later than the date classes start.

d. All schools are reminded that they are still required to report changes in enrollment status such as reductions in training time, interruptions or terminations in accordance with VAR 14203.

5. *End of Full Course Certifications.* a. Effective immediately, schools operating on a term basis should discontinue, if they have not already done so, the practice of certifying the complete course. Instead, the period certified should never exceed the ordinary school year plus the immediately following summer term(s). It is no longer acceptable to combine a summer term with the ordinary school year which follows.

b. Programming has been requested to terminate full course awards currently in the system with a future break of a full calendar month or more after May 1, 1977 since there is no specific request for advance payment of record for these cases, and if advance payment were not made there would be no way to confirm the reenrollment if confirmation were required. The termination will be effective at the end of the term preceding the full calendar month break. A computer generated VA Form 22–1999–1, Reenrollment Certification, will be issued for these terminated cases, and the veteran will be advised by computer letter that he or she must contact the school for a new enrollment certification if he or she reenrolls. A computer writeout with message number 996 and the legend "FUTURE AWARD PERIODS TERMINATED" will be issued in May for drop-filing in these cases.

c. Programming has also been requested to issue a message in May 1977, for IHL cases certified beyond October 1977, that do not have a full calendar month break. Specific instructions for this message will be issued at a later date.

6. *Interval Payment.* a. Payment for an interval between terms will be authorized in all cases except in the following situations:

(1) An interval between terms, regardless of length, if the student is training at less than a half-time rate, or is on active duty;

(2) An interval between terms at the same school which spans a complete calendar month or more;

(3) An interval of more than 30 days between consecutive terms when the veteran or eligible person transfers to another school;

(4) An interval, regardless of length, preceding a change of program;

(5) An interval, regardless of length, which is specifically designated by a school as an interval between the end of one school year and the beginning of the next, if the school operates on other than a term, quarter or semester basis;

(6) An interval between terms for which the eligible student requests, prior to award authorization or prior to check negotiation, that no benefits be paid; and

(7) An interval during which the veteran's entitlement will be exhausted and it is to his or her advantage not to receive benefits for the interval.

b. If otherwise in order, interval payment will be authorized upon processing of a reenrollment document. Use either an amended or reentrance type of award action in these cases. However, under no circumstances should a non-advance-payment reentrance award with reason code 60 be submitted to DPC Hines more than 60 days before the beginning date of the award. The rate of payment for the interval will be at the rate in effect for the previous term.

7. *Summer Enrollment.* It should be noted from the above discussion that: a. Advance payment requests for continuing students for the summer term will generally be inappropriate because there is usually less than a full calendar month break between spring and the summer terms; b. Interval payment between spring and summer terms will generally be in order for the same reason; c. Non-advance-payment summer enrollments for continuing students at the same school may be submitted and processed before the start of the summer term since confirmation of these summer enrollments will not be required; and d. the summer enrollment may not be combined with the fall enrollment (except when the summer enrollment is entirely retroactive and the fall enrollment is confirmed).

8. *Computer-Generated VA Form 22–1999–1.* a. The next set of computer-generated reenrollment certification forms will be restricted to use for fall enrollments only. In using these forms, schools should understand that if

advance payment is requested, all five requirements in paragraph 3b must be met. Also, schools should understand that if these forms are used for non-advance-payment fall enrollments, they must be signed and dated on or after the beginning date of the enrollment.

b. Except for stations that use CRT terminals, it is not contemplated that regional offices will process any VA Forms 22–1999–1 without review of the claims folder this year because otherwise: (1) Interval payment might be omitted when due; (2) Advance payment might be authorized in a case with less than a full calendar month break resulting in a possible delay in the issuance of the advance payment check; (3) An erroneous award action might occur as the result of a failure to timely drop file the VA Form 22–1999–1. (This problem may increase this year as summer enrollments will, with few exceptions, be received on a separate document from the fall enrollment document.)

9. *Special Payment.* Changes to special payment rules will be issued in a separate publication. Meanwhile, station Directors are reminded of their authority to modify the 30-day rule contained in M22–2, part IV, chapter 9, paragraph 9.01a(2), if conditions warrant.

10. *April and May Check Stuffers.* A stuffer which will describe the end of prepayment and the changes in the advance payment procedures will be included in all checks issued in April and May. The stuffer tells the claimant to contact the school if advance payment is desired. Regional offices should be prepared for inquiries on both prepayment and advance payment.

11. *Liaison.* Sufficient copies of this circular will be supplied for State approving agencies, IHL's and NCD's. However, close liaison with the schools will be necessary to ensure their understanding of these changes. Particular emphasis should be placed on the following points: a. The end of prepayment (par. 2); b. The five requirements for advance payment (par. 3); c. The definition of a confirmed enrollment and the situations in which confirmed enrollments are required (par. 4); d. The maximum period that may be certified for schools operating on a term, quarter, or semester basis (par. 5); e. The impending termination of full course awards with a future break of a full calendar month occurring after May 1, 1977 (par. 5); f. The effect of the new changes on summer enrollments (par. 7); and g. The requirement that only reenrollments beginning with fall 1977 may be certified on VA Form 22–1999–1 (par. 8).

A. J. Bochicchio,
Acting Chief Benefits Director.

[DVB Circular 20–77–25 (Confirming Teletype Transmission), Mar. 22, 1977]

Chapter 32

Post-Vietnam Era Veterans' Educational Assistance
PL 94–502

1. *Purpose.* The stated purpose of chapter 32, title 38, U.S.C., is to provide educational assistance to those persons who enter the Armed Forces after December 31, 1976; to assist them in obtaining an education they might not otherwise be able to afford; and to promote and assist the all volunteer military program of the United States by attracting qualified persons to serve in the Armed Forces. This circular provides a detailed explanation of the new chapter 32 benefit program. Specific procedures and detailed instructions implementing this program will follow.

2. *General.* Chapter 32 is a voluntary contributory matching program for persons initially entering military service after December 31, 1976. Each person entering military service after that date has the right to enroll in and make contributions to the educational benefits program provided by this chapter at any time during the person's service on active duty. When a person elects to enroll in the program, such person must participate for at least 12 consecutive months before disenrolling or suspending participation (except as otherwise provided in this circular).

a. Contributions to the program will be accumulated from servicepersons electing to participate in the program with the Veterans Administration matching the serviceperson's contributions on a two-for-one basis. The Secretary of

Defense may elect to contribute as deemed necessary or appropriate to encourage persons to enter or remain in the Armed Forces.

b. The service departments have the responsibility to process applications to start, stop and change the serviceperson's contributions to this program through military pay allotment systems. Funds collected will then be transferred to the VA which will maintain identification data as well as monthly contribution amounts for each participant.

c. Regulations and definitions, when applicable, will be developed jointly by the VA and DOD.

d. The enrollment provisions of this chapter are initially authorized through December 31, 1981. Presidential and Congressional review prior to that time will determine if these provisions will be continued beyond that date, with funding to be transferred to DOD and administration to remain with the VA.

3. *Definitions.* a. The term "eligible veteran" means any veteran who:

(1) Initially entered military service on or after January 1, 1977, served on active duty for a period of more than 180 consecutive days commencing on or after such date, and was discharged or released therefrom under conditions other than dishonorable, or

(2) Initially entered military service on or after January 1, 1977, and was discharged or released from active duty after such date for a service-connected disability.

NOTE: Subparagraphs (1) and (2) above have the effect of excluding those persons entering on active duty on January 1, 1977 through January 1, 1978, who enlisted in military service prior to January 1, 1977 (e.g., under a DEP (Delayed Enlistment Program)), since they would come under the provisions of chapter 34 rather than chapter 32.

(3) The requirement of discharge or release as prescribed in subparagraphs (1) and (2) above, shall be waived in the case of any participant who has completed his or her first obligated period of active duty (which began after December 31, 1976), or 6 years of active duty (which began after December 31, 1976), whichever period is less.

b. For the purpose of determining eligibility for chapter 32, the term "active duty" excludes those periods as outlined in VAR 11040(B)(1), (2) and (3), (i.e., assignment to civilian institution, cadet or midshipman at service academy or National Guard/Reserve Unit per 10 U.S.C. 511(d)).

c. The terms "program of education" and "educational institution" have the same meaning ascribed to them in 38 U.S.C. 1652(b) and (c).

d. A "participant" is a person who is participating in the educational benefits program established under chapter 32. This includes: (1) A person who has enrolled in and is making contributions by monthly payroll deduction to the "fund" and (2) Those veterans or servicepersons who have contributed to the "fund" and have not disenrolled (i.e., users or potential users of benefits).

e. The "fund" is a trust fund account established to maintain the dollar contributions of the participant and the Secretary of Defense. The statistical and dollar amount segments of this "fund" will be recorded and maintained by the VA.

f. A person who "suspends" participation is one who stops contributing to the "fund" (temporarily or permanently). Such person can resume contributions without penalty or can utilize benefits accrued, if otherwise eligible. A person who "disenrolls" is one who terminates participation and forfeits any entitlement to benefits except for a refund of his/her contributions previously made. An inservice participant may suspend participation or disenroll for hardship at any time, or he/she may suspend or disenroll without hardship at the end of any 12 consecutive month block of participation or at the time of discharge or release from active duty. A veteran participant may disenroll from the program at any time and for any reason, regardless of whether he/she has used any accrued benefits prior to disenrollment.

g. The definition of "hardship" or "other good reasons" will be prescribed jointly by VA/DOD regulations.

4. *Eligibility.* Each person initially entering military service on or after January 1, 1977 (for exceptions see par. 3a(2). NOTE) shall have the right to become a participant in the educational benefits program as provided under chapter 32 at any time during such person's service on active duty.

a. When a person elects to enroll in the program, such person must participate for at least 12 consecutive months before disenrolling or suspending participation.

(1) This would not preclude a serviceperson with less than 12 months remaining in his/her period of service from enrolling in the program. If such person reenlists he/she must have completed a minimum participation requirement of 3 consecutive months before being eligible to receive benefits (see par. 7b and e). However, if such person did not subsequently reenlist, he/she would then retain entitlement to accumulated benefits through the last month of participation.

(2) In the event that a serviceperson meets the joint VA/DOD criteria for reenrollment after disenrolling from the program, a new participation period will begin.

(3) No one who reenrolls will be allowed to repurchase entitlement by tendering previously refunded contributions to the VA or DOD. No participant will be allowed to retroactively backdate the effective date of enrollment into the program by tendering a lump-sum amount covering retroactive periods.

(4) A person who suspends participation in the program may resume contributing to the fund, having met the joint VA/DOD terms and conditions for the program, and the period of suspension will not break the continuity of participation.

b. The requirement of a minimum of 3 consecutive months of participation to qualify for benefits shall not apply when the participant suspends participation from the program because of personal hardship; or the participant is discharged or released from active duty.

(1) A person who suspends participation based on hardship or who is discharged or released from active duty retains the right to entitlement earned through the last month of participation.

(2) A person who disenrolls based on hardship forfeits entitlement to benefits and becomes entitled only to a refund of his/her contributions to the fund.

c. An individual may be permitted to suspend participation or disenroll from the program at the end of any 12-consecutive-month period of participation without proof of hardship.

(1) Suspension in this instance allows resumption of participation under specified terms and conditions or use of accumulated entitlement.

(2) Disenrollment in this instance provides for forfeiture of entitlement, allows reenrollment under specified terms and conditions and provides for a refund of only such participant's contributions made prior to disenrollment.

(3) An individual may disenroll after discharge or release from service, regardless of whether he/she has applied for and received benefits under this chapter. Disenrollment in this situation would require forfeiture of any remaining or unused entitlement and provide only for a refund of such part of the participant's contribution as remained in his/her account.

5. *Contributions to Fund.* Benefits will be accumulated by including contributions from the participant, possibly the Secretary of Defense, and with the VA matching the serviceperson's contributions.

a. Each person electing to participate in the program shall authorize a monthly deduction from his/her pay. The participant's monthly deduction may be no less than $50 and no more than $75 monthly and the amount must be divisible by $5. Total contributions by the participant to the fund are limited to a maximum of $2,700. A participant who contributes the minimum $50 monthly amount could do so for 54 months before reaching his/her maximum of $2,700 allowed.

b. Except as otherwise provided, each contribution by a participant shall entitle him/her to matching funds from the VA at the rate of $2 for each $1 contributed by the participant.

c. The Secretary of Defense is authorized to contribute to the fund of any participant such amounts as the Secretary deems necessary or appropriate to encourage persons to enter or remain in the Armed Forces.

6. *Refunds Upon Disenrollment.* Under the chapter 32 program, only unused amounts contributed by a participant may be refunded if the participant disenrolls from the program or is deceased.

a. Disenrollment before discharge or release from active duty will result in a refund of a participant's contribution on the date of discharge (or release from active duty) or within 60 days of receipt by the VA of notice of such discharge or disenrollment. Refunds may be made earlier in instances of hardship or for other good reasons as jointly specified by the VA and the DOD.

b. Disenrollment after discharge or release from active duty will result in a refund of the participant's contribution within 60 days of receipt of an application in the VA for said refund from a participant.

c. Death on active duty or after discharge or release from active duty requires that any amounts contributed for an individual by the Secretary of Defense, remaining in the fund be refunded to the Secretary. The same refund provision applies if the participant disenrolls or is disenrolled.

d. Upon the death of a participant while on active duty or after discharge or release from active duty, any remaining unused amounts of the participant's contributions shall be refunded to:

(1) The beneficiary or beneficiaries as designated by the participant under his/her SGLI (Serviceperson's Group Life Insurance) policy; or

(2) In the absence of designated beneficiaries or if no SGLI is in effect, to the estate of the participant.

e. When the discharge or release from active duty of a participant is under dishonorable conditions, such participant is automatically disenrolled. Any contributions made to the fund by such participant will be refunded on the date of discharge or release from active duty or within 60 days of receipt of notice by the VA of such discharge or release, whichever is later.

f. If the eligible person has not used any, or only partial entitlement by the end of his/her 10 year delimiting date, such participant is automatically disenrolled. At such time the participant will be notified of any remaining amount of his/her contributions in the fund. Such amounts will be refunded if an application is received in the VA within 1 year of notice. If no such application is received within 1 year of notice, it will be presumed that the individual's whereabouts are unknown and the participant's contributions will be transferred as directed by 31 U.S.C. 725s(a).

7. *Entitlement and Payment of Benefits.* A participant shall be entitled to a maximum of 36-monthly-benefit payments or the equivalent in part-time training. Unlike chapter 34 benefits, however, chapter 32 benefit payments are not authorized for pursuit of an apprenticeship or on-job training program and additional monthly sums for dependents are not payable.

a. Payment of benefits will be made only for periods of time during which an eligible participant is actually enrolled in, and satisfactorily pursuing, an approved program of education after the individual has been discharged or released from active duty, except as provided in subparagraph b below.

b. Payments may be made after a participant has completed the first obligated period of active duty (which began after December 31, 1976) or 6 years of active duty (which began after December 31, 1976, whichever period is less, and if the 3 consecutive month minimum participation requirement has been completed. (See subpar. f below regarding PREP (Predischarge Education Program) payments.)

c. The monthly dollar amount of payment under chapter 32 available for full-time training will be determined by the following computations:

(1) Add all contributions made to the fund by the eligible participant;

(2) Multiply the sum obtained in subparagraph (1) above by the factor 3 to account for the VA matching funds;

(3) Add all contributions made to the fund by the Secretary of Defense on behalf of the participant to the amount obtained in subparagraph (2) above; and

(4) Divide the amount obtained in subparagraph (3) above by 36 or the number of months the individual participated, whichever is less.

d. The monthly benefit amount for less than full-time training will be obtained by multiplying the monthly amount for full-time training by the appropriate fraction for three-quarter, one-half or one-quarter-time training. Only these fixed amounts will be paid regardless of whether the training is pursued on a less than half-time basis or by inservice participants (i.e., prorated charges based on tuition and fees provided for chapter 34 do not apply to chapter 32 benefit payments).

e. Benefit payments to inservice students who are drawing benefits as well as continuing to contribute to the fund (i.e., during their second enlistment period or after 6 years of active duty, whichever is less, and if they have completed the 3 consecutive month minimum participation requirement) will initially be based on the amount of entitlement available at the time the first benefit check is computed (i.e., to include all contributions up to the computer processing date). However, no more than one-thirty sixth of the contribution by the Secretary of Defense to the member's fund will be paid to an inservice student in any month. Subsequently monthly benefit amounts will include successive contributions resulting in a recomputation of the monthly benefit amount to be paid based on full-time training.

f. Any enlisted member of the Armed Forces who is a participant in the chapter 32 program shall also be eligible to participate in and receive benefits for PREP during the last 6 months of such members first enlistment. No charge to entitlement under chapter 32 will occur and the rates payable under PREP, in this instance, will be the cost of the course or $292 monthly, whichever is less, for full-time training. After once having made contributions to the program, a participant may enroll in PREP even though he/she may have suspended contributions at any time subsequent to electing to enroll and participate in chapter 32. The extreme case of a participant enrolling and contributing to the fund for 1 month, suspending for hardship, applying for and being authorized benefits under PREP (during the last 6 months of his/her first enlistment period) is possible.

g. Payment under chapter 32 for a flight or correspondence course to an otherwise eligible veteran, shall be based on 100 percent of the cost of said course. One month's entitlement shall be charged for each month of benefits paid (computed on the basis of the formula listed in subpar. c above for the purpose of debiting entitlement).

h. Eligible veterans participating in chapter 32 shall be eligible for education loans as authorized by 38 U.S.C., chapter 36, subchapter III. Amounts loaned and the terms and conditions of such loaned amounts will be same as previously provided in subchapter III mentioned above.

i. Eligible veterans under chapter 32 are not eligible to participate in the work-study program or receive tutorial assistance.

8. *Delimiting Date.* No educational assistance benefits shall be afforded an otherwise eligible veteran under this chapter beyond 10 years after the date of his/her last discharge or release from active duty.

9. *Requirements/Comparability.* The provisions of current law under 38 U.S.C., chapter 34, which specifically apply to the chapter 32 educational benefits program are as follows:

Section:	***Topic area***
1652(b)	Program of education.
1652(c)	Educational institution.
1670	Selection of program.
1671	Applications; approval.
1673	Disapproval of enrollment in certain cases.
1674	Discontinuance for unsatisfactory conduct or progress.
1676	Education outside the United States.
1677	Flight training.
1681(c)	Educational assistance allowance—flight training.
1683	Approval of courses.
1696 and 1698	Predischarge education program (PREP).

38 U.S.C., chapter 36, Administration of Educational Benefits, is in general applicable to the new chapter 32, Post-Vietnam Era Educational Assistance, program. The following sections are not for application:

Section:	
1777	Approval of training on the job.
1780(c)	Apprenticeship and other on-job training.
1787	Apprenticeship or other on-job training.

A. J. Bochicchio,
Acting Chief Benefits Director.

It is my distinct pleasure and privilege at this time to introduce our first witness, who is Andrew H. Thornton, Director of the Education and Rehabilitation Service. Mr. Thornton?

STATEMENT OF ANDREW H. THORNTON, DIRECTOR, EDUCATION AND REHABILITATION SERVICE, ACCOMPANIED BY JUNE C. SCHAEFFER, ASSISTANT DIRECTOR, BENEFITS AND FACILITIES, EDUCATION AND REHABILITATION SERVICE; ALEX S. KRAUT, DIRECTOR, BUDGET STAFF; MARTIN D. CARLIN, EXECUTIVE ASSISTANT TO CONTROLLER; AND WILLIAM G. MALONE, ASSISTANT GENERAL COUNSEL

Mr. Thornton. Thank you, Mr. Chairman. I would like to introduce the members of the Veterans Administration who are here with me today. We have Mr. William G. Malone, Assistant General Counsel; Miss June Schaeffer, Assistant Director, Benefits and Facilities, Education and Rehabilitation Service; Mr. Alex S. Kraut, Director of our Budget Staff; and Mr. Martin D. Carlin, the Executive Assistant to the Controller.

Mr. Chairman and members of the committee, we are pleased to have this opportunity to testify before your committee regarding certain provisions of Public Law 94–502, in particular, the 85–15 percent ratio requirement and the 2-year rule which you asked that we address today.

In the fiscal year 1976 Veterans Administration program, we had 2,950,714 total trainees. Projected figures for fiscal year 1977 are 2,189,005, and for fiscal year 1978, 2,004,640. Comparing fiscal year 1976 with fiscal year 1978, these figures represent a 32 percent decrease in total trainees. Total training costs in fiscal year 1976 were $5,300,007,000; this compares to a fiscal year 1978 projection of $3,983,452,000, or a decrease of 25 percent from 1976 to 1978. The potential for abuse in our present program has been greatly curtailed in large part by many of the provisions of Public Law 94–502. Two of these provisions are the 85–15 percent rule and the 2-year rule. They will constitute the major portion of my comments today.

Public Law 94–502 amended title 38, U.S.C. 1673(d) to provide that effective December 1, 1976 the enrollment of an eligible veteran—not already enrolled—may not be approved in any course for a period during which more than 85 percent of the students enrolled are having all or part of their tuition, fees, or other charges paid to or for them by the school, the Veterans Administration, and/or grants from any Federal agency. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines it to be in the best interest of the eligible veteran and the Federal Government. This waiver portion has been the most difficult for us from an administrative point of view. I will speak to the specific waivers a little later but first I think it would be helpful to give some history of the 85–15 percent requirement.

As you know, the 85–15 rule is not new to the veterans' education program. Public Law 550, 82d Congress, which was the Korean conflict GI bill, first brought the rule into being. It came about primarily as a result of some of the abuses prevalent in the World War II bill. This original 85–15 rule was aimed at the so-called fly-by-night schools which were mainly proprietary profit schools below the college level. Many of these schools were populated by 90 to 100 percent veterans.

Public Law 93–508, enacted on December 3, 1974, extended the 85 percent enrollment limitation to accredited courses not leading to a standard college degree offered by a proprietary institution. Special assistance to the educationally disadvantaged and the predischarge education program courses were excluded from this limitation.

Prior to enactment on October 15, 1976, of the current law, Public Law 94–502, we encountered a new set of problems. These problems cropped up because the law prior to Public Law 94–502 exempted courses leading to a standard college degree and courses offered by public institutions. We began to see a pattern of schools designing curricula and courses solely to attract veteran-students. Colleges especially were entering into contracts that capitalized on the exemptions in 85–15. Before the enactment of Public Law 94–502, we witnessed a spectacular increase in veteran enrollments in schools that had established many branch locations. Many of these branch locations were set up in unconventional places, such as motel rooms, and were aimed primarily at veteran attendance. It became apparent that unless the loopholes in the 85–15 rule were closed, we would find ourselves with the same kind of problem we had in the World War II program—only this time the problem involved institutions of higher learning.

In overpayment hearings before this subcommittee in April through June of last year, this problem was made known to your committee and one of our legislative recommendations was to strengthen the 85–15 rule. Congress did this with the enactment of Public Law 94–502. We think that action was the right one.

As I mentioned before, the discretionary waiver provision of the law has given us, and schools, some administrative headaches. Before addressing these, I would like to point out that there are three exclusions provided in the law itself. These are: educationally disadvantaged type courses; farm cooperative courses; and courses on or adjacent to military bases, which are available only to military or their dependents, provided the course is approved by the state approving agency where the base is located.

In addition to these built-in exclusions to the law, there are waivers which could be given by VA, provided, as the law mandated, the Administrator determined that they would be in the interest of both the veteran and the Federal Government.

In November 1976, we published the original Appendix H to DVB Circular 20–76–84, relating to the 85–15 rule, in which we set forth basic waivers that could be granted. We also delegated the authority to grant them to station directors. These waivers included graduate students and undergraduate and non-college degree students. For graduate students, counting of all Federal assistance—other than VA benefits—and all support from the institution was waived. No specific application is required from the school. The most complex and detailed category of waivers was the one for the undergraduate/non-college degree students. We allowed that all assistance provided by the school itself could be waived, as long as the school's policy for determining the recipients of such assistance was the same for veterans and nonveterans alike. The school had to make a specific application to the station director for this waiver. Next, we permitted waiver of the 85–15 percent computation for any course if 35 percent or fewer of the students in the course were in receipt of educational benefits, and the percentage of VA-supported students in that course plus the percentage of the school's total enrollment receiving BEOG—Basic Educational Opportunity Grants—or SEOG—Supplementary Educational Opportunity Grants—assistance totaled 85 percent or less. Appendix H also specified that when more than 35 percent of students enrolled in a course were in receipt of VA educational assistance, the ratio had to be computed for that course, with BEOG and SEOG recipients being included in the 85 percent portion of the ratio.

Under the terms of Appendix H, all forms of Federal assistance, such as LEEP, GETA support and tuition paid by Armed Forces to active duty personnel, other than BEOG and SEOG could also be waived. No specific application for this waiver had to be made by the school. In addition, military aero clubs which were previously exempt from the 85–15 rule could be waived with no specific application from the school.

The final category of waivers under the terms of Appendix H were those courses open only to military personnel, their dependents, and civilian employees of a military installation, provided the course was offered on or adjacent to the base. The course also had to be offered under contract with the Department of Defense and, in addition, it had to be approved by the State approving agency in the State where the military installation was located.

Many schools raised a chorus of objections to Appendix H. They contended the reporting requirements were too cumbersome and also that they could not accomplish the certification requirements within 30 days of the beginning of a course. In response to the difficulties being experienced by schools, we published Appendix H Revised in December, 1976. To loosen the time frame on initial reporting requirements, Appendix H Revised allowed the schools 30 days from the beginning date of a course, or February 1, 1977, whichever was later, for the first report required under the new law. Appendix H Revised dispensed with the need for a specific application by a school to the station director for any waivers provided in the appendix. Records to show the basis for applicable waivers must be retained by schools for verification during VA compliance surveys.

Schools were still concerned about the difficulty of those students in receipt of BEOG or SEOG benefits. Many schools contended they do not keep centralized records as to which students are in receipt of BEOG or SEOG benefits. We recognized their difficulty in this area and expanded the combination 35 percent/BEOG–SEOG waiver in the publication of change 1 to appendix H revised, which appeared in early January 1977. This change authorized station directors to waive 85–15 percent computations for any institution which could certify that 35 percent or less of their enrollment was receiving VA educational assistance. It allowed that when VA enrollment was over 35 percent, schools could have a temporary waiver delaying full implementation of the BEOG and SEOG portions of computation requirements. The temporary waiver applies only to the 1976–77 academic year ending June 30, 1977.

Let me just say something about this 35 percent figure and what it was based on. The estimated total student enrollment for peak fall enrollments in 1976 was 11,290,719. Out of this number, 1,294,267 are GI bill trainees. This means that 11.5 percent of total college enrollments were estimated to be veterans. The 35 percent figure in our waiver provision represents then, the percentage of veteran student—11.5 percent—times 3. We think this 35 percent figure is a fair one and one that the schools can live with.

We estimate that approximately 95 percent of the schools in this country can certify that less than 35 percent of their students are veterans. The remaining, we believe, are those schools which Congress intended we examine closely before granting any waiver of the 85–15 rule.

It should be noted at this time that the October 1976 CPS—current population survey—shows that 1.2 million veterans ages 20–34 were enrolled in schools in the United States. Of the 1.2 million enrolled in all schools, 73.8 percent—850,000—were employed; 708,000, full time and 142,000, part time. Many of the schools experiencing difficulty in meeting the 85–15 rule are those with high enrollment of veterans employed full or part time.

The 85–15 percent certification statement required of schools on our forms is another area which has caused some difficulty. Originally, we required that each enrollment certification have attached a statement to the effect that the school had no more than 85 percent of students enrolled in a course in receipt of VA education benefits or Federal funds or funds from the school. With the publication of change 2 to appendix H revised in late January, we changed our position on that and now schools which have qualified for a waiver of 85–15 percent computations based on a veteran enrollment of 35 percent or less need not attach such a statement.

The effectiveness of the new 85–15 percent rule is difficult to document at this time. We do find, however, that some of the schools that have been most vocal in their opposition to the 85–15 percent rule are the very ones that have been in the business of trying to get a high veteran enrollment. Since the World War II program, we have found that some schools catering predominantly to veterans do not always provide a quality education and they tend to drop a program when veteran enrollment decreases, thus leaving the enrolled veteran with no program. As of March 25, 1977, there were seven cases in litigation contesting the validity of the 85–15 rule and the 2-year rule as applied to institutions of higher learning. It is interesting to note that most of these suits have been filed by business schools with predominant veteran enrollment. Also, most of these schools have branched out beyond their normal base.

I would now like to turn to the 2-year rule. The 2-year rule, like the 85–15 rule, is not something new to our education program. I think some history of the rule would be appropriate here.

Legislation requiring the expiration of a specified period of time before courses offered by an institution could be approved for the enrollment of veterans with available Federal funds originated in the closing years of the World War II GI bill. Experience with the World War II GI bill disclosed the development of schools and courses which were almost exclusively aimed at veterans eligible for GI bill payments.

The abuse posed by such operations finally became all too evident and Congress responded by enacting Public Law 81-266 which contained provisions prohibiting GI bill payments to veterans training in institutions which had been in operation less than 1 year. As with the limitations subsequently enacted on the number of federally assisted students who could be enrolled in any course, this provision was a device intended by Congress to allow the free market mechanisms to operate and weed out those institutions who could survive only by the heavy influx of Federal payments. As implemented by regulation, the Veterans Administration treated as a new school any new branch campus other than one established in close proximity to the original school that was "necessary to handle the overflow of students in the parent institution."

Subsequently, legislation was enacted as part of Public Law 81-610 which specifically exempted from the 1-year requirement any public or other tax-supported school. Although the legislative history concerning this exemption is minimal, the exception, no doubt, reflected an assessment that the majority of problems which first occasioned the rule originated with proprietary-for-profit schools. It should be noted, however, that we expressed reservations at the time about such an exception to the 2-year rule noting that:

> The very purpose of the general requirement that a school must have been in operation for at least 1 year is to ensure that it shall have proven its worth for a reasonable period of time so that the interest of the veteran will be protected and Federal funds will not be expended wastefully. If the purpose is to be carried out effectively, the requirement must be as nearly uniform as possible.

The Korean conflict GI bill—Public Law 82-550—provided that a course must have been in operation for at least 2 years before veteran enrollment could be approved. The House Veterans' Affairs Committee report, accompanying that legislation—H.R. Report 82-1943—termed this provision "a real safeguard to assure sound training for veterans at reasonable cost by seasoned institutions." They further noted that had such a requirement been in effect for most of the life of the World War II GI bill that there was "little doubt that considerable savings would have resulted and much better training would have resulted in many areas."

The Korean conflict GI bill also provided exceptions which were expanded somewhat without discussion with the enactment of the current GI bill program—Public Law 89-358. A minor exception, with respect to certain institutions offering courses under subchapter V or VI of chapter 34, was adopted in 1972—Public Law 92-540.

Our testimony given before this committee last year pointed out that the great number of multibranch campuses as well as the dramatic rise in the number of recruiting, consulting, and other specific service-type contracts that schools were entering into, were, in many cases, thinly veiled attempts to circumvent the 2-year rule and the 85-15 rule. This led to the conclusion that the exceptions to the 2-year rule that existed prior to Public Law 94-502 were invalid and should be done away with—at least as to branches and extensions.

Public Law 94-502 amended 38 U.S.C. 1789 by applying the rule to courses offered by certain branches and extensions previously excluded; it also excepts certain courses from the rule. For example, this amended 2-year rule makes an exception for courses that are offered by a school which is under contract with the Department of Defense. This exception is available only when the course is given on or immediately adjacent to a military base; is available only to active duty military personnel and their dependents; and is approved by the state approving agency having jurisdiction over the base. The reason for this exception is that schools which contract with the military usually receive some supervision from the base education authority and fill a particular need of a group, whose members may all be eligible for benefits under the GI bill.

This same law, Public Law 94–502, made branches and extensions of public or tax-supported institutions, where the branch or extension is outside of the taxing jurisdiction that provides support to the parent school, subject to the 2-year rule. It also brought branches and extensions of proprietary schools both (profit or nonprofit) where the branch or extension is beyond commuting distance of the main campus under the rule.

Our administrative experience has indicated that in many branch locations or extensions, the parent school loses control somewhat over what is going on at the branch. In addition, we know that some of these branches or extensions were established to serve veteran-students almost exclusively and were usually operated out of inadequate facilities. It is our conviction that the quality of the education offered by such branches and extensions cannot properly be evaluated without a period of experience, 2 years being a reasonable span for such experience, regardless of initial intentions.

I will finish my formal statement now with a few comments about our overpayment situation. Figures for the last several months are encouraging. We are definitely on a downward trend. In October of 1976, our accounts receivable balance at the beginning of that month was $445,034,000. We have shown a decrease in every month for which we have figures since then. The latest month is January 1977, showing a beginning of the month balance of $438,095,000. Similarly, our end of the month balances have been showing a healthy decrease, down from $443,756,000 in October 1976 to $436,838,000 in January 1977.

Mr. Chairman, this concludes my presentation. My associates and I will be pleased to respond to any questions you may have.

Mr. Mottl. Thank you very much, Mr. Thornton. We appreciate your testimony.

First of all, the Chair will recognize the ranking minority member of the subcommittee, the gentlelady from Massachusetts, Mrs. Heckler.

Mrs. Heckler. Thank you, Mr. Chairman, and thank you, Mr. Thornton. I will not go through all of my questions because that would be unfair to the other members of the panel to do so at one time.

However, we are very concerned about this program and, as you know, I think all of——

Mr. Mottl. Would the gentlelady yield for one moment?

Mrs. Heckler. Yes.

Mr. Mottl. Without objection, we will have the 5 minute rule unless we waive it. Is that all right with you, Mrs. Heckler.

Mrs. Heckler. Yes, I think that is fair to everybody.

Mr. Mottl. Fine. I would also like to ask the subcommittee: should the Chair recognize people as they attend—besides the rule of minority/majority alternating out of fairness—or by where they sit as far as seniority on the subcommittee is concerned?

Mr. Cornell. As they attend.

Mr. Mottl. As they attend, fine. Is there any objection to the Chair recognizing people in that order— as they attend outside of the alternating between minority and majority members?

[No response.]

Mr. Mottl. Without objection, the Chair will follow that pattern of recognition from here on in.

I am sorry, Mrs. Heckler.

Mrs. Heckler. Not at all, I agree with you, Mr. Chairman. I think those procedures are fair.

I have a great deal of concern about this program, as does every other member of this subcommittee. I have received a lot of mail, especially from the colleges, protesting the regulations on the basis that they are overly demanding, cumbersome and difficult for the colleges to comply with.

Now at the same time, we are all aware of the reasons the regulation was instituted. Just last year this subcommittee held hearings on the abuse of the program.

What I would like to ask first of all is: do you have a figure for the total of taxpayers dollars which have been expended over the years for the GI bill—either for this current bill or preferably including the current bill? Do you have a total sum of how much the Government has invested in GI education?

Mr. Thornton. I would like to ask Mr. Kraut to answer that question.

Mr. Kraut. We do not have a figure going back to the inception of GI bills; but in fiscal year 1976, the expenditure was over $5 billion (5,008,843,000) in G.I. training benefits. We think that there will be a decrease—a considerable decrease—both in fiscal year 1977 and 1978.

Mrs. Heckler. What percentage of a decrease do you expect?

Mr. Kraut. A decrease of about 30 percent.

Mrs. Heckler. So you are projecting fiscal 1978 at about $3–4 billion?

Mr. Kraut. In fiscal 1978 it will be about $3.6 billion.

Mrs. Heckler. Mr. Thornton, do you feel that the 2-year rule is serving a good purp[illegible]? Should it be modified and if so, how should it be modified?

Mr. Thornton. I think that the rule is serving a good purpose. I think that the schools need to demonstrate that they are capable of carrying on an adequate program at a location before we begin enrolling veterans at the school. I think that the experience we had from World War II with schools branching out and now with schools beginning to enter into contracts with other organizations to help them set up branch locations and so forth makes that necessary.

In some cases we are finding schools, such as a public school in Missouri which branched out and completely lost control of their program.

Mrs. **Heckler**. Now, of course, you are aware of the objections to the program by some of the universities. How do you respond to those objections?

Mr. **Thornton**. The universities——

Mrs. **Heckler**. Colleges, universities, schools, et cetera.

Mr. **Thornton**. Objecting to the 2-year rule?

Mrs. **Heckler**. Yes.

Mr. **Thornton**. Most of the public colleges and universities, of course, operate their branches in the State where they are covered by the taxing jurisdiction and are therefore exempt. It is only when they move outside of their State that they are required to operate their program for 2 years before they can enroll veterans under the GI bill.

Of course, if they move onto a military location, they are exempt there if they enroll only military personnel and their dependents. So, I think that the rule is reasonable.

Mrs. **Heckler**. Do you feel that the rule has curtailed the abuses that were raised at last year's hearings? Do you have any evidence to show that?

Mr. **Thornton**. I think that we have a lower number of students enrolled under the GI bill this year than we had forecast in our budget, because of the tightening up brought about by Public Law 94–502 and because of the application of school liability provisions of the law—where schools were not reporting to us promptly and so on. I think this has caused students who were not earnestly seeking an education to drop out of the program. I think that is why our estimates for fiscal year 1977 are proving to be high.

Mrs. **Heckler**. But do you feel that the VA, with the 85–15 rule or the 2-year rule, is preventing any eligible veteran from furthering his education at professional or vocational schools?

Mr. **Thornton**. We have, of course, had provisions for waiving the 85–15 percent rule delegated to our directors; and, in case the school disagrees with the action by the director, the school can ask for a waiver in our office. We have had some requests for waivers in our office.

One particular example that came to my attention recently concerned a college that offers a business-type course—bachelors degree —when in the same city there is also a public institution which offers a business degree program at a lesser tuition rate.

So I do not think that the veteran who is interested in furthering his education is prohibited from that because the public institution is not in trouble with the 85–15 percent rule. So I do not think that by failing to grant this waiver, we are denying veterans the chance at higher education.

Mrs. **Heckler**. Would you propose any change in the 85–15 requirement?

Mr. **Thornton**. At this point I would not. I think that with the 35 percent rule which we have right now, practically all schools or at least 95 percent of the colleges and universities will be able to avoid making actual computations and I think that the 5 percent which will not be covered are of the type which Congress would like for us to look at more closely before we grant them waivers.

Mrs. HECKLER. Thank you.

Mr. MOTTL. Thank you, Mrs. Heckler. The Chair will recognize at this time the gentleman from California, Mr. Hannaford.

Mr. HANNAFORD. Thank you, Mr. Chairman. Could I ask what other witnesses we are going to be having, since that would relate to my question?

Mr. MOTTL. Mr. Thornton is the only witness that will be testifying this morning besides his colleagues here who work with him.

Mr. HANNAFORD. Most of the correspondence that I have received does not relate to either the 85–15 rule or the 2-year rule, but rather to what is referred to as appendices M and O. Your statement, unless I was immersed in thought and missed something, did not address those two subjects.

Mr. THORNTON. Those two questions will be addressed tomorrow. We were asked to talk about the 85–15 percent and the 2-year rules today and the other provisions tomorrow. I will be talking about appendix M and appendix O tomorrow. Those are the ones having to do with nonpunitive grades and unsatisfactory progress.

Mr. HANNAFORD. I see. I think that I will not take my full 5 minutes then, Mr. Chairman, because I am particularly interested in those two appendices. I spent a number of years teaching in college myself and I recognize the severe problems that colleges have with those kinds of regulatory restrictions. Indeed, the nonpunitive grade provision would eliminate some of the finest Ivy League schools and most prestigious universities in the country from eligibility for VA assistance.

Mr. THORNTON. We did have a meeting with people from the academic community last week—the American Council on Education and most of the organizations over at 1 Dupont Circle—and discussed appendices O and M and agreed to set up a working team to see if we can write a directive which will be in keeping with the law and will not sound quite as complicated as the directive that is out now.

Mr. HANNAFORD. Mr. Chairman, is our meeting at the same hour tomorrow morning—at 10 o'clock?

Mr. MOTTL. Yes.

Mr. HANNAFORD. I very much hope that I will be able to be here. There is much happening over in my other committee, but these things are of great import to the colleges in my State. Thank you, Mr. Chairman. I yield my time back.

Mr. MOTTL. Thank you, Mr. Hannaford. We certainly appreciate your cooperation in holding these questions in abeyance until tomorrow. It will be very interesting to hear the answers to Mr. Hannaford's question tomorrow with regard to this important subject.

The Chair will recognize the gentleman from Ohio, Mr. Wylie.

Mr. WYLIE. Thank you, Mr. Chairman. I am sorry to be late, but I had another committee meeting too and also some telephone calls back to my district and so forth. I imagine this question is repetitive, but what do you think of the 85–15 rule?

Mr. THORNTON. I think that the 85–15 percent rule serves a good purpose. I think that if a school offers a program that cannot attract students who are not supported by the Federal Government at a rate of at least 15 percent, we should look at it very closely before we grant a waiver.

It seems to me that any school that offers a program that is worthwhile can certainly attract 15 percent of their student population from those who are supporting themselves.

Mr. WYLIE. This was put in to prevent or avoid abuses which we discovered in the GI bill educational benefits program. Is that a fair appraisal of the reason for this rule?

Mr. THORNTON. Yes sir.

Mr. WYLIE. Has it prevented some of the abuses which we ran across last year where students were being enrolled in classes which did not really exist and where other students were not matriculating and those sorts of things? Has this helped prevent those abuses?

Mr. THORNTON. The 85–15 percent rule went into effect on December 1. We gave the schools the opportunity to make the computation within 30 days (by February 1, 1977) or to request a waiver. We had some requests for waivers and we have had some schools which say that they cannot comply with it and they have gone into court asking for restraining orders to prevent the implementation of this rule.

Mr. WYLIE. Several schools have gone to court to ask for an injunction to prevent your implementation of the rule and in most cases have received temporary restraining orders. What generally is the basis for those restraining orders? Is there a thread through these cases? Have they claimed that it is unconstitutional?

Mr. THORNTON. I would like for Mr. Malone, from our General Counsel's Office, to answer that if he would.

Mr. MALONE. Mr. Wylie, they have basically contended that it is discriminatory as other persons receiving Federal assistance are allowed to go to these schools. They have argued that it is an undue burden on the veteran to have to go to some other place other than the school that he elects to attend. They have directly challenged the constitutionality of the provision.

Mr. WYLIE. So the answer to your question is that they feel that it is discriminatory in view of the application of educational benefits with respect to other students? Is that the answer to the question?

Mr. MALONE. That is correct. They say that students who are getting Federal aid from other programs may elect to go to whatever school they wish and yet, the veteran, in view of the 85–15 provision, may not.

Mr. WYLIE. Do you think that BEOG students and SEOG students should be included in the 85–15 percent provision?

Mr. THORNTON. Basic education and supplementary education opportunity grants?

Mr. WYLIE. Yes.

Mr. THORNTON. These people are supported by the Federal Government and if a program is totally supported by the Veterans Administration or by the Office of Education through one of these programs, we feel that a school ought to be able to find at least 15 percent of their students from those who are not being supported by the Federal Government before we enroll veterans.

However, we recognized with our delegation of the authority of waiver, that there are developing institutions, as defined by the Office of Education, which offer training predominantly for minorities and so we gave the directors authority to grant a waiver on counting the BEOG and SEOG for these types of schools.

I am informed by the Office of Education that there are approximately 1,000 schools which are currently classified as developing institutions which would automatically be eligible for the waiver of the BEOG and the SEOG. They do not classify profit institutions as developing institutions. We gave our directors the authority to grant that same consideration to profit institutions if they could demonstrate that they meet the same conditions as a developing institution as defined by the Office of Education with the exception of being a nonprofit school.

Mr. WYLIE. Have you encountered any difficulty or alleged difficulty—on the part of the Veterans Administration—from any schools stating that they have difficulty identifying the BEOG's and the SEOG's? This is one complaint that I have received from one of the administrators at Ohio State for example.

Mr. THORNTON. We met with representatives from the academic community before we initially published the first appendix H which addressed the 85–15 percent rule. They told us that although the schools could identify the students at the schools which were getting these grants, they could not identify which particular program they were in. For that reason, our directive on granting waivers said to count the veterans by the course. We know that they keep records by the course for veterans because they have to certify by course to us. We said to count the BEOG and SEOG schoolwide rather than by course. So we have eliminated the requirement that they count it by individual programs.

Mr. WYLIE. Do you feel that any veteran has been denied his educational opportunities as a result of the 85–15 and 2-year rules?

Mr. THORNTON. Do I feel that any have been?

Mr. WYLIE. Yes. I know that is difficult to——

Mr. THORNTON. If I recall correctly, in one of the suits brought recently, a school was joined by 9 veterans and claimed that there were 150 veterans who were similarly circumstanced. As I recall, the judge granted a temporary restraining order involving the 9 veterans, but not involving the additional 150 veterans. Is that right, Mr. Malone?

Mr. MALONE. That is correct.

Mr. WYLIE. Thank you very much.

Mr. MOTTL. Thank you, Mr. Wylie. The Chair will recognize at this time the gentleman from North Carolina, Mr. Hefner.

Mr. HEFNER. Thank you, Mr. Chairman. I apologize for being late and not hearing all of your statements, but I will read it. I do not really have any questions as such, but we have been deluged with cases—if you want to call them that—from some of the veterans. Do you envision that at some time in the future, through legislation and modification, that we will be able to do away with the major portion of the abuses in our programs? Because we do have a tremendous amount of them. It is sad to say that we not only have some from the standpoint of the schools, but we also have some abuses from the veterans themselves.

The ideal situation is to have the best program we can for the veteran to see that he does get an education, but we do not want this to be another so-called unemployment/public works program. Do you envision in the near future that maybe we will be able to have this program to a point where we have done away with almost all of the current abuses?

Mr. THORNTON. That is certainly the goal that we are working toward. If you recall last year when we were over here for hearings, you heard evidence about one public institution—I believe the school was in Florida—where students had enrolled semester after semester after semester; had gotten F's or had withdrawn without any grade; had continued to enroll with no interruption for unsatisfactory progress; and so on. The schools generally develop some sort of standards which are fairly acceptable to prevent this type of abuse, but not all schools do. In fact, that school, as I recall, originally submitted a standard of progress which would have allowed a student to remain at that junior college for up to 4 years or more and never graduate with an associate degree. Public Law 94–502 includes a provision whereby a student must make progress at a rate which will allow him to graduate within the normal time frame based on his training load.

I think with the implementation of that provision, regardless of what kind of standards the school has, many of the abuses such as the type which were presented here last year will be prevented.

Mr. HEFNER. Well, on granting a waiver, do you take into consideration that there may be some areas where a school is located where there is a high concentration of unemployment? Does that figure into that?

Mr. THORNTON. I would think that we would take that into consideration. We have not specifically mentioned that and I do not recall that I have had any requests from schools which claimed that that was the reason for exceeding the 85 percent.

Mr. HEFNER. Well what is the requirement for—and maybe I should know this. Certainly students should progress and this type of thing, but do you have any regulations insofar as attendance is concerned—where the schools make this information available to you?

Mr. THORNTON. With the institution of higher learning-level courses, we do not require attendance reports. We do, of course, require verification of enrollment at the beginning of the school year and towards the end of the school year we send a certification to the school to be completed either by our veteran's representative on campus or by the school to verify that the student was in school throughout the year. So we are getting a report on that. Now the students who——

Mr. HEFNER. Excuse me. That they were in school and attended regularly or that they were enrolled?

Mr. THORNTON. That they were enrolled and pursuing the number of hours that was certified to us. We show on the card which goes to the school 12 hours or 14 hours or however many have been certified to us. If they are not pursuing training at that rate, then the report which comes back is supposed to give us the correct number and when it was reduced.

However, in our regulations which we published prior to Public Law 94-502, we specified that schools must report to us within 30 days after a change occurs or within the immediate month following the time that a change occurs—any change in the enrollment of a student. Of course a school which fails to do that is potentially liable for any overpayment which we might make as a result of their failure to report.

Mr. **Hefner**. In other words, if the school is in violation, they could potentially be obligated to the Government for the funds which have been paid to the veteran?

Mr. **Thornton**. Right sir.

Mr. **Hefner**. Have we had any cases of this?

Mr. **Thornton**. Yes sir. We have right now around $33 million which has been charged as potential liability to schools because of failure to report. This potential liability is established and then the school is given a chance to come in and rebut the evidence which we have and show that they are not liable. I believe at the present time that about $7 million of it has been confirmed as the result of a hearing which was held at the regional office; and approximately $81,000?

Mr. **Kraut**. Approximately.

Mr. **Thornton**. Approximately $81,000 have been collected from schools.

Mr. **Hefner**. $81,000 out of how much liability?

Mr. **Thornton**. $7 million that has been assessed.

Mr. **Hefner**. Thank you, Mr. Chairman.

Mr. **Mottl**. Thank you, Mr. Hefner. Next the Chair will recognize the gentleman from Tennessee, Mr. Allen.

Mr. **Allen**. Thank you, Mr. Chairman. First of all, I would like to compliment Mr. Thornton on his very comprehensive statement on the program.

I take it that the thrust of your statement in answer to Mr. Hefner's question was that without any changes in the existing law, you think the Veterans' Administration can improve their track record of the delivery of educational opportunities in seeing to it that the veterans do get the training and education that the Federal Government is paying for?

Mr. **Thornton**. And reduce the overpayments going out, right sir.

Mr. **Allen**. Well now, the reason that I asked that question was because I heard from the father-in-law of one student who wanted to be transferred in Nashville, because he said that most of the time spent in the school was by students playing ping-pong and that at one course the instructor came in and spent the entire period teaching them how to use a screwdriver. This is to a group which was supposedly in their second year—spending that much time teaching them how to use a screwdriver.

In any event, after much persuasion, I was able to persuade the local VA to permit him to transfer to another school, but it concerned me that the Veterans' Administration did not keep a closer watch on what the schools are doing.

Now as I understand it, under the law or under the procedures followed generally by the Veterans' Administration, you depend upon the State educational departments and the State authorities to pass upon the credentials and qualifications of the school, is that correct?

Mr. Thornton. That is generally true. We rely upon the State approving agencies to determine the quality of the instruction and the qualifications of the instructors at the schools. Now where there is a flagrant violation and where we feel that the State is not doing its job, we do have authority to convene a committee on education and training allowances at the regional office to determine whether or not we should continue to pay students at the school despite the continued approval of the State approving agency. Rarely do we ever convene that committee as the result of a question about the quality of instruction or the qualifications of instructors, because we usually rely on the State's department of education to handle that.

Mr. Allen. Mr. Thornton, does the Veterans Administration ever have men on its own staff go in and sit in these classrooms and actually see what kind of instruction is being given to these students?

Mr. Thornton. We do compliance surveys at all institutions of higher learning which have 300 or more veterans enrolled each fiscal year. At the schools which offer noncollege degree programs, we make a survey each year.

We do not normally go into the classrooms of the institutions of higher learning. We do go into the classrooms of the noncollege degree level schools. We mainly confirm that they are following a training schedule and if we find that they are not, we report it to the State approving agency for appropriate action. We check to determine that the attendance recordkeeping is accurate to make sure that we are making payments which are in keeping with the law.

Mr. Allen. Now in certain cases—I suppose this is in the higher education bracket—you said that you require the institutions to verify that the veteran had enrolled and that at the end of the year that he had successfully completed so many hours of instruction. Is that correct, sir?

Mr. Thornton. Towards the end of the year, we get a report that the student did in fact pursue his program for this certified period at the rate which they had certified to us.

Mr. Allen. Now, Mr. Thornton, suppose a veteran enters a program and enrolls and really has no intention or changes his mind after he has enrolled and does not attend school during the entire year; and a whole school year passes and then you find out later that he actually has not attended. Is this not a rather lax way to prevent the Federal Government from paying money for instruction which has not been taken?

Mr. Thornton. Our regulations provide that the school, in case he decides not to go to school and ceases to attend, report to us within that month or immediately thereafter the fact that he has ceased to attend. They certify to us at the beginning of the enrollment period that if there is a change in his enrollment that they will report it to us. If they fail to report it to us, as they have agreed, and then we find that he did not go to school when we get this certification at the end of the year, the school is potentially liable for that overpayment which went to that veteran.

Mr. **Allen**. When was the 2-year rule invoked?

Mr. **Thornton**. Originally the 2-year rule came into being with the enactment of the Korean bill, Public Law 550. Prior to that, under the World War II bill, after the law had been in operation for some time, Congress invoked a 1-year period of operation requirement for the World War II bill. The 2-year rule has been in since the beginning of the Korean bill. At various times there have been various exceptions to it and last year some of those exceptions were removed.

Mr. **Allen**. Thank you, Mr. Thornton.

Mr. **Mottl**. Thank you, Mr. Allen. The Chair will recognize the gentleman from Wisconsin, Father Cornell.

Mr. **Cornell**. Thank you, Mr. Chairman. Could you give us some idea percentagewise of how many waivers requests have been rejected?

Mr. **Thornton**. On the 85–15 percent?

Mr. **Cornell**. Right.

Mr. **Thornton**. I do not have a figure on that. Do you mean how many have been sent to the central office and were turned down after they had been turned down at——

Mr. **Cornell**. No, I was just referring to the total numbers. You do not have that information?

Mr. **Thornton**. No, I do not have it.

Mr. **Cornell**. Okay. Now, I understand the—what you call "station directors"?

Mr. **Thornton**. Right.

Mr. **Cornell**. I presume that is in your——

Mr. **Thornton**. Regional offices.

Mr. **Cornell**. Regional offices, yes—can grant or deny, right?

Mr. **Thornton**. Right.

Mr. **Cornell**. Requests for waivers. Now, this can be appealed then to the——

Mr. **Thornton**. Central office.

Mr. **Cornell**. [continuing] Central office?

Mr. **Thornton**. Yes sir.

Mr. **Cornell**. What about those that have been appealed? Do you have any idea of what percentage were rejected?

Mr. **Thornton**. After considering all the facts, the two cases which were formally referred to Control Office were denied. In both cases other programs were available in the same area therefore no student was denied use of his or her benefits.

Mr. **Cornell**. I noted in your statement that the policy in regard to graduate students exempts from the 85–15 rule all those receiving Federal assistance other than the VA benefits and all those who are receiving support from the institution. Is that correct?

Mr. **Thornton**. Yes sir. Before we published our directive on the 85–15 percent and delegated the authority to waive to the regional offices, we talked with the educational community and I was told by the representatives who met with us that practically 100 percent of the graduate students are either supported by the Federal Government or by the institution or by the Veterans Administration under the GI bill.

So, if we had not granted a waiver there, we would have effectively eliminated graduate programs from the GI bill.

Mr. CORNELL. That I can readily understand. I was just wondering if you had had difficulty in applying even that rule to graduate students. I realize that it is a recent development.

Mr. THORNTON. I would presume that no school has had any difficulty, because I have not had a single request for a waiver or appeal to my office.

Mr. CORNELL. I see. What is the policy in regard to branches or extensions of institutions. I asked this question because I have had a number of veterans who have written to me and said that they were no longer receiving their benefits because of the fact that they were in 2-year institutions which were branches or extensions of a 4-year institution and yet they had made arrangements for particular courses so they could remain there. I believe in one instance it was a law enforcement course. Have you had many instances of requests for waivers in such cases and are they readily granted?

Mr. THORNTON. Under the regulations that we published for the 85–15 percent and the two-year rules, any student who was currently enrolled, even though the school did not meet the 85–15 percent rule or did not meet the 2-year requirement, the student was allowed to continue the program as long as he remained continuously enrolled unless he was interrupted by circumstances beyond his control—and then he could go back in whenever the circumstances permitted.

Mr. CORNELL. Well, really what I was referring to was that these are 2-year institutions in the sense that they provide 2 years of training normally and they are extensions or branches of 4-year institutions; and yet, because they are 2-year institutions, if a veteran-student were to remain there longer than the 2 years, his benefits would be cut off even though the program was continued.

Mr. THORNTON. If the school is approved by the state approving agency as a branch to operate only a 2-year program, that is all the veteran is entitled to whether or not Public Law 94–502 was enacted. He is only entitled to benefits so long as he is enrolled in an approved program and if the program is approved as a 2-year program only, that is all he is entitled to.

Mr. CORNELL. Well, actually in this case the 4-year institution continued this particular program, a law enforcement program, beyond the 2 years. Now, are waivers readily granted in such cases?

Mr. THORNTON. That particular case has not come to my attention. Now, maybe the director has granted a waiver in that case—I do not know.

Mr. CORNELL. I see. What has been your experience as far as post-secondary vocational/technical schools are concerned with regard to waivers of the 85–15 rule?

Mr. THORNTON. We have had no request from any field station or from any school for review of a decision by a station director, so I presume that there has been no dissatisfaction with the decisions of our regional office directors because I have had no appeals.

Mr. CORNELL. Well then there must be some who are not appealing, because I have had some complaints in reference to that too. Thank you, Mr. Chairman.

Mr. MOTTL. Thank you, Father Cornell. I just have one or two questions, if I may, at this time, Mr. Thornton. At our budget hearings on approving our budget resolution of the committee for fiscal year 1978, it was brought out that the Veterans Administration had overestimated the educational budget request by about $800 million for fiscal year 1977.

Testimony from the VA indicated that there were a number of factors in why the Veterans Administration had asked for about $800 million more than necessary to pay the veterans' education program.

It would be appreciated if you would indicate how much of the $800 million can be attributed to the tightening provisions of Public Law 94-502 and the previous administrative actions by the VA to curb abuses in the veterans' programs. Can you give us any indication or at least an opinion on your part on that?

Mr. THORNTON. I do not know if we have made an estimate on how much of the $800 million was due to tightening of the rules. Of course there has been a change in the state of the economy that always causes the enrollment of veterans to go down. The increase which we expected because of the increased rates which were authorized by Public Law 94-502 has not come about as we had expected. So there are several factors which have contributed to that overestimation. We did not get an increase from suction that we expected because of the increased rates, the tightening of the rules, the state of the economy, and so on.

Mr. MOTTL. If you had to give an educated guess, what would you say could be attributed to the new law?

Mr. KRAUT. I would say somewhere around 10 to 15 percent of the total shortfall.

Mr. MOTTL. OK, thank you very much. In your testimony, Mr. Thornton, on page 8:

> The effectiveness of the new 85-15 rule is difficult to document at this time. We do find, however, that some of the schools that have been most vocal in their opposition to the 85-15 percent rule are the very ones that have been in the business of trying to get a high veteran enrollment. Since the WW II program, we have found that some schools catering predominantly to veterans do not always provide a quality education, and they tend to drop a program when veteran enrollment decreases, thus leaving the enrolled veteran with no program.

Could you give us the names of some business schools or of some institutions which are considered to be in this category of those just trying to cash in on this veterans' educational program?

Mr. THORNTON. Some of the schools which have expanded and have gone out into the business of recruiting courses which are predominantly for veterans?

Mr. MOTTL. If you have any examples for the committee of schools that tried to rip-off the program, could you at least furnish that to the committee?

Mr. THORNTON. We will furnish that.

Mr. MOTTL. We would certainly appreciate that—maybe by tomorrow would be very nice if you could—some examples.

Mr. THORNTON. All right, sir.

[The requested information follows:]

Schools under the current law have not yet generally experienced a decrease in veteran enrollment sufficient to cause them to drop programs. It happened after World War II and the Korean Conflict. We do have a number of schools that now have a high percentage of their enrollment that are veterans. Six business schools have recently brought suit against the Veterans Administration concerning the implementation of PL 94-502. They are: Detroit College of Business (Michigan), National College of Business (South Dakota), Owensboro Business College (Kentucky), Johnson and Wales (Rhode Island), Fisher Junior College (Massachusetts), and Jones College (Florida).

Mr. MOTTL. Thank you very much, Mr. Thornton. The Chair will recognize at this time the distinguished gentlelady from Massachusetts, Mrs. Heckler.

Mr. HECKLER. No further questions, Mr. Chairman.

Mr. MOTTL. Father Cornell, do you have any further questions?

Mr. CORNELL. No.

Mr. MOTTL. Yes; Mr. Stover, do you have some questions?

Mr. STOVER. Yes. I think my question would be directed to Mr. Malone. It references page 9, where the testimony is that as of March 25 of this year there were seven cases in litigation contesting the validity of the 85-15 rule and the 2-year rule as applied to institutions of higher learning.

Now, as I understand it, Mr. Malone, these seven cases are still pending—have not been permanently decided and are still in litigation with possibly one exception. I understand that in one of these cases a temporary restraining order was denied. Could you provide for the record, in general terms, the status of these cases so that anyone reading the record will not be misled into thinking that maybe these cases were decided in favor of the plaintiffs? At this point, Mr. Chairman, it is suggested that a list of these cases and their status as of March 25, 1977 be included in the record.

Mr. MOTTL. Without objection it is so ordered.

[The information follows:]

STATUS OF EDUCATIONAL LITIGATION AS OF MARCH 25, 1977

38 U.S.C. 1785 (SCHOOL LIABILITY FOR OVERPAYMENTS)

1. Colorado: The State of Colorado has sued the Veterans Administration alleging that section 1785 of title 38, United States Code, which provides for recovery from schools for overpayments to veterans in certain cases where the overpayment has been the result of the willful or negligent failure of the school to report information regarding the veteran's attendance to the Veterans Administration, is unconstitutional. The pleadings have already been filed and a trial date has been set for March 31, at 9:30 a.m. (*State of Colorado, et al.* v. *VA, et al.*, USDC D Colorado, CA 76-F-1114.)

2. Maine (Superintending School Committee of Portland): This case is substantially identical to the case in Colorado. However, on January 17, 1977, the district court issued a temporary restraining order preventing the Veterans Administration from seeking to recover overpayments from the school during the pendency of this action. On March 9, 1977, following a conference between the Judge and counsel for both sides, the Judge dissolved and vacated the TRO. The Judge also asked plaintiffs to file an amended and shortened complaint. The plaintiffs are also considering staying their action pending a determination by the VA as to whether the school's reporting of repetition of courses constitutes fraud under section 1785. (*Superintending School Committee, etc.* v. *VA, etc.*, USDC SD Maine, CA 76-177.)

38 U.S.C. 3101(a) (NONASSIGNABILITY)

1. San Francisco (Peace Officer Training Service): In this case, a correspondence school sought to have the court determine that the amendment to

3101(a) effective December 1, 1977, which provides that the sending of a check to the school where the school holds a power of attorney so it can cash the check is tantamount to an assignment, has no retroactive effect prior to December 1, 1976, the effective date to the amendment. A hearing on the Government's motion to dismiss the plaintiff's cause of action took place on February 18, 1977. The Judge indicated that he would draw an order favorable to the Government, but such order is still pending. (*Peace Officer Training Service College, et al.* v. *Richard L. Roudebush, et al.*, USDC ND Cal., CA C-76-2782-CFP.)

2. Los Angeles (Los Angeles Community College): In this case the Los Angeles Community College which had courses overseas deposited numerous checks and powers of attorney with the court seeking a determination that they had the right to cash these checks. An order was entered on February 14, 1977, which permitted the College to cash the checks using the powers of attorney and providing further that they could cash all checks for courses which began prior to December 1, 1976, but will conclude shortly thereafter at the end of the term. It was clearly understood that after that point, the College would be subject to the new law. On March 2, 1977, the Solicitor General's Office advised us that they would not appeal this case. At the present time a hearing is scheduled for April 4, 1977, at which time the preliminary injunction would be made final. The VA objects to consenting to a final injunction and has requested the Department of Justice to vigorously protest the court's contemplated action on the grounds that the findings that the school has a security interest and property right in a veteran's benefits is directly contrary to law and the theory of equitable estoppel is not for application. (*Los Angeles Community College* v. *Richard L. Roudebush, et al.*, USDC CD Cal., CA 77-0096-LEW.)

3. Washington, D.C. (United Systems): In this case a correspondence school sought to have the court declare that section 3101(a) had no retroacitve application. The Judge stated that the amendment wihch provided that sending a check to a school's address coupled with a power of attorney was tantamount to an assignment must be read with the statute prior to its amendment. The statute begins with the words payments of benefits due or to become due. The Judge felt that this was clearly an indication that all assignments were forbidden even before the enactment of the new section and that the law clearly had retroactive effect. Accordingly, the Judge entered a favorable decision on January 17, 1977, and the plaintiff filed a notice of dismissal on January 21, 1977. (*United Systems, Inc.*, v. *Richard L. Roudebush, et al.*, USDC D Columbia, CA 76-2203.)

4. New Jersey (American Training Services): A bankruptcy judge in New Jersey also held that 3101(a) clearly had retroactive effect, and issued a decision in favor of the Government. He refused to stay the plaintiff's request pending an appeal because he felt there was little likelihood of success on the merits. The case will be argued on March 25, 1977. (*American Training Services, Inc. et al.* v. *VA, et al.*, USDC D New Jersey, No. B-76-1562.)

5. Washington (Big Bend Community College): In this case three schools in the State of Washington, two of which provide overseas PREP training, sought to have 3101(a) declared to have no retroactive effect. A hearing was held on March 21, 1977, and the court has taken the matter under advisement. (*Big Bend Community College, et al.* v. *Richard L. Roudebush, et al.*, USDC ED Wash., CA C-77-46.)

38 U.S.C. 1673 (SECTION 205 PUBLIC LAW 94-502) (85-15 RULE) AND 38 U.S.C. 1789 (SECTION 509(b)(4) PUBLIC LAW 94-502) (TWO-YEAR OPERATION RULE)

1. Michigan (Detroit College of Business): This school sought a temporary restraining order to prevent the Veterans Administration from enforcing the 85-15 and 2-year rule against it. A TRO was granted on January 31, 1977, and expired on February 28, 1977. A hearing on the plaintiff's motion for a preliminary injunction was held on March 21, and the court has taken the matter under advisement. (*Maurice H. Fielder, et al.* v. *Richard L. Roudebush, et al.*, USDC ED Mich. SD, CA 77-0220.)

2. South Dakota (National College of Business): As above, the National College of Business sought an injunction to prevent the Government from enforcing the 85-15 and 2-year operation rule. The court granted a preliminary

injunction and now pleadings are to be filed by both parties and the Judge will reach a decision which he has indicated from the bench will be favorable to the plaintiff. (*Johnnie L. Francis, et al.* v. *Richard L. Roudebush, et al.*, USDC D SD WD, CA 76–5085.)

3. Kentucky (Owensboro Business College): In an action similar to the above, the plaintiff's motion for a temporary restraining order was denied. The answer to the plaintiff's complaint is due April 19, and a hearing on the preliminary injunction has been tentatively scheduled for July 6, 7, or 8, which the Judge says is the earliest date he can hear the motion. (*Glen A. Grubbs, et al.* v. *Richard L. Roudebush, et al.*, USDC WD Kentucky, CA 77–0016–0.)

4. Wisconsin (Dodd): In this case the plaintiffs, which included a college, a temporary restraining order to prevent the Veterans Administration from enforcing the 2-year operation rule. The temporary restraining order was denied on March 10, 1977, on the grounds that there was little likelihood of success on the merits. A hearing has been scheduled on the preliminary injunction for April 1, with simultaneous briefs due on March 25. (*Linda J. Dodd, et al.* v. *Nicholas Rott, et al.*, USDC ED Wisconsin, CA 77–C–142.)

5. Rhode Island (Johnson & Wales College): On March 18, 1977, 14 veterans and a school sought and obtained a TRO to prevent the VA enforcing the 85–15 rule. The TRO is to expire March 28, 1977, however, a further 10-day extension is anticipated. (*Richard Rolle, et al.* v. *Max Cleland, Administrator, Veterans Administration, et al.*, USDC D Rhode Island, CA 77–128)

6. Massachusetts (Fisher Jr. College): On March 23, 1977, the court issued a TRO for the benefit of 9 veterans who allegedly were denied admission to the school because the school failed to meet the 85–15 and [illegible]ear rules. (*William E. Chambers, et al.*, v. *Max Cleland, Administrator*, USDC D Mass. Ca.)

7. Florida (Jones College): Six plaintiffs and Jones College are seeking to enjoin the VA from enforcing the 85–15 and 2-year rules. A hearing on plaintiff's application for a TRO has been scheduled for March 28, 1977, at 9:30 a.m. in Tampa, Florida. (*Peggy Tuttle, et al.*, v. *Max Cleland, Administrator*, USDC MD Florida, CA 77–144–Orl–CIVIL R.)

DUE PROCESS

1. Minnesota (Waterman, Veteran-Student et al.): In this case various plaintiffs had their VA benefits terminated because of unsatisfactory progress. They sought a temporary restraining order on the basis that they were not given the opportunity for a pretermination hearing, and this violated their right to due process. On March 3, 1977, the court denied plaintiffs' application for a temporary restraining order. The plantiffs have requested a continuance on the hearing on the preliminary injunction which had been set for March 11. No new date has been set yet. (*Waterman, et al.* v. *Roudebush, et al.*, D Minnesota, CA 4–77–70.)

2. North Carolina (Walters, Veteran-Student et al.): On March 16, 1977, the court signed an order stating that there was no denial of due process because the plaintiffs were not allowed a pretermination hearing with respect to the terminaion or removal of their work-study agreements. However, the Judge stated that if the plaintiffs could prove that they were denied employment because of their outside activities (picketing the VA), hey would be entitled to damages. The Government is attempting to settle this matter with the plaintiffs by agreeing to pay them for the time they could have worked between the time their applications for renewal of the work-study program were denied and later granted. (*James D. Walter, et al.* v. *Richard L. Roudebush, et al.*, USDC WD North Carolina, Charlotte Div., CA C 75–381.)

3. Los Angeles (Citrus College): Plaintiffs are veterans whose benefits were suspended because an audit of their school showed apparent extensive violation of statutory requirements. They brought suit alleging they were entitled to a hearing before their benefits were terminated. On August 11, 1976, the court entered a permanent injunction against the VA requiring, among other things, the VA to give the veteran 30 days prior notice to any suspension, reduction, or termination of education benefits. The Government has appealed the decision and opening briefs are due April 4, 1977. (*Devine* v. *Miller*, USDC CD Cal., CA 76–0592–IH; CA 77–1424 and 77-1430 US Ct. of Appeals for Ninth Circuit.)

4. Washington, D.C. (Coleman American School) : The School filed an action on November 11, 1976, alleging they were not granted due process before veteran enrollment in the school was terminated. The Government's answer was filed February 1, 1977, and a date for a hearing has not been set. (*Coleman American Companies, Inc.* v. *Administrator of Veterans Affairs*, USDC D of Columbia, CA 76–2091.)

NONACCREDITED DEGREE COURSE MEASUREMENT (VAR 14272(B)(3))
38 CFR 21.4272(B)(3)

1. Kentucky (Ashland Business College) : Six veterans and a school are seeking to prevent the VA from enforcing a regulatory change affecting the manner in which a nonaccredited degree course offered by a college or university may be approved for measurement on a credit hour basis. The Judge permitted a hearing on the TRO originally scheduled for March 23, 1977, to be reset for March 29, 1977, at 1:00 p.m. in order to give the Government some time to prepare its case. (*Ashland Business College* v. *Max Cleland*, USDC ED Kentucky, CA.)

Mr. MALONE. Let me address each one of the schools individually if I may.

The first school that we had a suit on in connection with the 85–15 rule was a group of veterans in conjunction with the National College of Business in South Dakota. They sought an injunction to prevent the enforcement of both the 85–15 and the 2-year operation rules. At that time the court granted a TRO, and extended the time indefinitely. A second hearing was held on a preliminary injunction and the preliminary injunction was not actually ruled on, but the judge advised that he would have to take the matter under consideration and indicated that it would be approximately 6 to 8 weeks before he could arrive at a decision. That case is still outstanding.

The next suit we had was in Michigan with a group of veterans and the Detroit College of Business. This followed the same pattern as the one with the National College of Business where the veterans said that they were being deprived of a chance to go to school and that the opportunity they desired was available mostly at that one particular institution; and the school, in turn, said that they were being deprived of a chance to enroll veterans. They sought a TRO from both the 85–15 and the 2-year rules. The temporary restraining order was granted on January 31, 1977 and it expired on February 28, 1977. It was never reopened, but there was a hearing set on a preliminary injunction—which is the usual step that follows a temporary restraining order. That was held on March 21 and the court now has this matter under advisement. The judge has not indicated when he expects to rule on it.

The next case that we had was in Kentucky. There a group of veterans and the Owensboro Business College brought an action similar to that above. The plaintiffs were seeking a temporary restraining order and in this case the judge denied it, finding that there was not a showing of irreparable harm if it was not granted. He advised that the preliminary injunction would require first, answers to the plaintiffs' pleading which the Government would have to make—or should make and that a hearing would be set sometime in July and he designated the 6th, 7th or 8th as the earliest date he could hear this motion. So in that case we have a TRO that was denied; a preliminary injunction date has been set; and papers have been filed.

The next case was in Wisconsin where a group of veterans and Milton College brought action. This sought also a temporary restraining order and it was directed at the 2-year rule. It did not bring in the 85–15 provision. This TRO was denied on March 10, 1977, on the grounds that there was little likelihood of success on the merits by the parties. A hearing has been scheduled for April 1 and the parties have been asked to submit briefs. The hearing scheduled for April 1 is on whether or not they would grant a temporary injunction.

The next action—and there were three that were filed last week, one immediately following the other—was in Rhode Island where 14 veterans and the Johnson & Wales Business School sought a TRO on March 18. This followed the same format as what had been followed in the others, where a group of veterans and a school both claimed that they were irreparably harmed if they were not allowed to enroll. The TRO was to prevent application of both the 85–15 rule and the 2-year rule. The TRO was granted. The TRO would have expired yesterday, however, there has been an extension granted for another 10 days and at that time there is to be an argument on the temporary injunction—not on the temporary restraining order.

I might point out in that case the parties—that is, the school particularly—were contending that the court should consider this as a class action. They had some 135 additional veterans besides the 14 whom they wanted to enroll. The practice set by the TRO would determine what they could do with the remaining 135 students.

The next case was the one in Massachusetts where the Fisher Junior College and a group of veterans sought a TRO and this was filed on March 23. In that case there were 9 veterans who were joined by the school. They were seeking a TRO against the 85–15 rule and the 2-year rule. A TRO was issued. However, in that case the judge ruled that the Fisher Junior College did not have standing to bring the action and struck them from the order. The court was asked by the school to allow them to enroll 150 additional veterans. He denied it as to the 150, but he did hold that the 9 veterans who were parties with the school could be enrolled. We are taking a look at the nine to see if there is any reason that they could not be enrolled, such as, if they are seeking reenrollment in a continuing course. Some of them we find, in all of the cases, are veterans who are currently enrolled and drawing assistance.

The last case was one that was filed in Florida by six veterans and the Jones Business School. They were seeking to enjoin the VA from enforcing the 85–15 and the 2-year rules. This case was argued yesterday and on that occasion at that hearing, the court denied the temporary restraining order. He led that there was adequate justification in the Congressional Record to show that the law was proper, but it could perhaps be classified as an inconvenience to the school, but was not irreparable harm—by his denying the temporary restraining order.

So, in summary, what you have are three instances where a temporary restraining order has been denied and four instances where a temporary restraining order has been granted. In none of them has there been a final disposition of the suit.

Mrs. HECKLER. Mr. Chairman?

Mr. MOTTL. Yes, Mrs. Heckler.

Mrs. HECKLER. Mr. Malone, could you give us the reason why there was an extension of the temporary restrainnig order in the *Rhode Island* case? What was the reason the court granted an extension.

Mr. MALONE. I am sorry, Mrs. Heckler, I did not hear the question.

Mrs. HECKLER. I said could you tell us the reason why the temporary restraining order was extended in the *Rhode Island* case, Johnson and Wales?

Mr. MALONE. There was no reason given. In a case of this type where there is a temporary restraining order, the law provides that it is for 10 days and then it goes ahead with a provision that an additional 10-day extension may be granted with the concurrence of both parties. The Government had no objection. The parties wanted an extension so a 10-day extension was granted.

Mrs. HECKLER. Who represents the Veterans Administration in these cases? Who appears for them?

Mr. MALONE. The Department of Justice.

Mrs. HECKLER. The Department of Justice, I see.

Mr. MALONE. Yes. They are the attorneys for the Government. We, whenever it is indicated or requested, do send a technician along to talk to the assistant U.S. attorney as to what the type of program is that he is dealing with.

Mrs. HECKLER. Could you tell me what your title is, please?

Mr. MALONE. I am the Assistant General Counsel—or one of the Assistant General Counsels at the Office of General Counsel, central office.

Mrs. HECKLER. And are you specializing in these programs—the educational programs—by any chance?

Mr. MALONE. Yes ma'am. That is one of the programs under my jurisdiction.

Mrs. HECKLER. What other programs are under your jurisdiction, if I may ask?

Mr. MALONE. I have the loan guaranty program and the total tort program, which would include medical malpractice, medical care recovery, workmen's compensation and the Military and Civilian Personnel Claims Act.

Mrs. HECKLER. And what percentage of your time is devoted to educational litigation? Is that a major problem in the VA?

Mr MALONE. In the past 3 months, Mrs. Heckler, it has been substantially more than ever before.

Mrs. HECKLER. What percentage of your time is devoted to education matters?

Mr. MALONE. I would say, if I were putting a percentage on it, the perhaps 40–45 percent of my time in the past 3 months has been devoted to education matters—not just law suits, but meetings with schools that are requesting certain considerations or that have things which they want to discuss with the agency

Mrs. HECKLER. That represents a significant amount of time. Is there a reason why there has been an upsurge in consideration, interest or problems with educational programs?

Mr. **Malone.** Yes, I think it is attributable to several things. I think Public Law 94–502 has been a definite cause or—we can attribute it to that.

During the latter part of 1975, there was detected a number of schools which were contracting with private industry to farm out the establishment of branches. Private industry would run the branches for them. It would establish the location—it was in motels and other various and sundry places.

We were asked for an opinion as to whether or not this would come under the exception to the 2-year rule, and our opinion was that it did not. This led to a number of meetings last year and this year with different schools that were contracting or attempting to contract with private industry to run these schools for them. We have met with them on numbers of cases where we said that it simply represented a joint venture or a joint contract or a partnership and it resulted in discussions at the central office level and modifications of their agreements.

So we have been in constant contact with a number of schools and their representatives on problems that they have encountered in doing what they wanted to do as a result of the amendment to the law and the tightening up of the program in all of the areas.

Mrs. **Heckler.** If I may, I have just one more question?

Mr. **Mottl.** Sure, go ahead.

Mrs. **Heckler.** It seems amazing to me that so many colleges and schools find it difficult to make ends meet and that is their constant cry and I think it is a just one. At the same time, private companies can make a profit out of education. What is the level of profit that these private companies are making, do you happen to know? Is there any information on that? How profitable is it?

Mr. **Malone.** I have absolutely none. We found that the contractual arrangement between the school and the recruiting organization would range anywhere from 10 percent to, in some cases, as much as 40 to 45 percent. Usually in the higher percentages, they would be providing the facility and they would be providing the bookkeeping arrangements.

Mrs. **Heckler.** Ten percent or 45 percent of what?

Mr. **Malone.** Of the monthly tuition of the veterans—or the monthly tuition that the school would receive.

Mrs. **Heckler.** I suggest that there would be a very minor share going to the instructors and then one has to question the value of the education of the veteran under those circumstances.

Mr. **Malone.** Well, these were some of the problems that we were concerned with last year—which I think was brought out in the hearing—that this was one of the areas of concern to us. I think it has been materially restricted.

Mrs. **Heckler.** Thank you, Mr. Malone.

Mr. **Mottl.** Thank you, Mrs. Heckler.

Would you not say that your increased activity as a result of the amendments, which is now known as 94–502 is temporary in nature until they get adjusted to these amendments—the institutions. Then they will settle down. Do you have an opinion on that, Mr. Thornton?

Mr. **Thornton.** I think the 85–15 percent circular generated an unusual amount of correspondence to both the Veterans Administration and to members of Congress and to the President. That has gone down dramatically within the last 2 months. Right now we are getting a flood of mail about appendix M and appendix O which are about nonpunitive grades and about standards of progress.

We are working with the educational community and we have agreed to meet with them again to see if we can work out something that will be workable so far as the schools are concerned and still be in keeping with the law. We expect to be able to bring that under control in the same way as we have with the 85–15 percent.

Mr. **Mottl.** Thank you. Do you know of any schools or educational institutions other than those alluded to in the law suits that are still pending who have barred their doors to veterans because of the 85–15 rule which may or may not have prevented veterans from receiving educational training as contemplated by the GI bill because of the 85–15 rule?

Mr. **Thornton.** We have one school in Maine that has asked for a waiver of the 85–15 percent rule on a bachelors degree program that they want to initiate for veterans only. They have a class they say of four who would enroll initially. It was a predominantly girls' school that has gone into a night program for veterans and they want to start a program and they have no nonveterans recruited for it. We did not grant a waiver for that because they do have day programs and there is a public school in the same vicinity which offers basically the same program at a lesser tuition rate.

Mr. **Mottl.** Fine. Thank you very much. Mrs. Heckler, any other questions?

Mrs. **Heckler.** No.

Mr. **Mottl.** We will now conclude and we will come back tomorrow morning to hear other aspects of this law and how they are working.

We certainly appreciate your testimony Mr. Thornton, Mr. Malone, Mr. Kraut and Miss Schaeffer. If you will bring with you tomorrow the education accounts receivable as shown for each year for the committee, we would certainly appreciate that.

Thank you very much. The subcommittee will now adjourn until 10:00 o'clock tomorrow morning. Thank you.

[Whereupon the hearing was adjourned at 11:28 a.m.]

REVIEW OF BALANCE OF OTHER PROVISIONS OF PUBLIC LAW 94-502

WEDNESDAY, MARCH 30, 1977

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EDUCATION AND TRAINING
OF THE COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:02 a.m. in Room 334, Cannon House Office Building, Congressman Ronald M. Mottl (Acting Chairman of the Subcommittee) presiding.

Mr. MOTTL. The subcommittee will now come to order.

Yesterday the subcommittee was privileged to hear from the Veterans' Administration spokesman on two provisions of Public Law 94–502, the Veterans Education and Employment Assistance Act of 1976: the 85–15 and the 2-year rules.

The hearings continue today with the VA spokesmen addressing their testimony to other provisions of Public Law 94–502. Much attention has been given to a number of provisions of Public Law 94–502, especially the satisfactory progress requirements for veterans to continue to receive their GI bill assistance checks and prohibitions against paying a veteran for courses for which the grade assigned is not used in computing requirements for graduation.

Other provisions of Public Law 94–502, such as the clarification of the prohibition against assigning veteran benefits to veterans, strengthening the law relating to correspondence school training and the inspection of school records by the Veterans' Administration to enable the VA to carry out its mission have also come to the attention of the committee.

Before we hear from Mr. Thornton, who will be our first witness, there are a number of questions regarding the 85–15 and the 2-year rules which were not presented at yesterday's hearing. Therefore the hearing record will be kept open so that each member of the subcommittee may present questions to the Veterans' Administration on any aspect of veterans' education and training, with responses by the VA to be made part of the hearing record.

Before we introduce our first witness, I would like to state for the record that Congresswoman Heckler regrets that she cannot participate in today's hearing. She is cochairing a subcommittee on food prices as regards the Joint Economic Committee this morning. She does have a question which will be proffered later. She is having a problem in her district with one of the institutions there. Possibly we could have an answer in the record which might be helpful to her and the institution in the district which she represents. So, without further ado, I would like to introduce our first witness, who will be Mr. Andrew H. Thornton, Director of the Education and Rehabilitation Service. Mr. Thornton?

STATEMENT OF ANDREW H. THORNTON, DIRECTOR, EDUCATION AND REHABILITATION SERVICE, ACCOMPANIED BY JUNE C. SCHAEFFER, ASSISTANT DIRECTOR, BENEFITS AND FACILITIES, EDUCATION AND REHABILITATION SERVICE; ALEX S. KRAUT, DIRECTOR, BUDGET STAFF; MARTIN D. CARLIN, EXECUTIVE ASSISTANT TO CONTROLLER; AND WILLIAM G. MALONE, ASSISTANT GENERAL COUNSEL

Mr. THORNTON. Thank you, Mr. Chairman. I would like to introduce again the members of the staff who are here with me and who will be assisting in answering your questions. We have Miss June C. Schaeffer, who is the Assistant Director of Benefits and Facilities, Education and Rehabilitation Service; Mr. William G. Malone, who is an assistant general counsel; Mr. Alex S. Kraut, director of the budget staff; and Mr. Martin D. Carlin, who is the Executive Assistant to the Controller and who has information about the overpayment situation and problems.

Mr. Chairman and members of the subcommittee, I am pleased to have an opportunity to appear before you again today to discuss certain portions of Public Law 94-502, especially those provisions covered by appendices M and O and D, revised, of our general implementing circular.

Public Law 94-502 amended 38 United States Code 1780(a), to provide that no payment of educational benefits will be made to an eligible veteran or person for audited courses or courses for which the grade assigned is not used in computing graduation requirements. This includes prohibition of payments for courses from which the eligible veteran or person withdraws, unless the Administrator finds mitigating circumstances involved in the withdrawal. Appendix M of our basic circular implements this provision.

Basically, the provision does not allow payment for courses from which the student withdraws or one for which he receives a nonpunitive grade since these are disregarded by the school in determining progress toward graduation. Prior to this amendment, abuses were accelerating with students enrolling in courses, getting paid without attending the complete course, or at the eleventh hour withdrawing from the course or electing to receive a nonpunitive grade. It was one way to convert an educational assistance program into what, in effect, was an income maintenance program. Many examples of this nature were called to your attention during the hearing held by your committee between April and June of 1976.

A closely related section of Public Law 94-502 is the amendment to 38 United States Code, sections 1674 and 1724, effective December 1, 1976. The amendment provided a minimum definition to the concept of unsatisfactory progress to mean—absent mitigating circumstances—those students not progressing at a rate sufficient to permit them to graduate within the approved length of the course, based upon the training time paid by the VA. Appendix O was published to implement this provision of Public Law 94-502. How this provision is applied by appendix O can perhaps best be illustrated by an example. A veteran is pursuing a bachelor's degree at a full-time rate, let us say 15 semester-hours per term. Should the veteran continue pursuit at that rate, he or she must normally complete work for the bachelor's degree in 4 years. Appendix O provides detailed methods of determining allowable time frames for graduation, based on various training times.

We believe this requirement is consistent with good program administration. We are also convinced that this requirement of law is in the best interest of veterans. It would be a disservice to veterans if we were to permit them to have an indefinite period of time to complete course work or to allow them to continue until 45 months of valuable entitlement have been wasted and their educational or vocational objective has not been met.

We recognize that there are, in appendices M and O, certain terminology and language problems and the instructions may initially appear confusing or perhaps too detailed. It should be kept in mind that among the primary users of these DVB circulars are our claims examiners in field stations. They deal on a daily basis with the detailed procedures of when to terminate benefits, under what circumstances, and for how long.

Over the past several weeks we have been reviewing and analyzing comments on these appendices received from the educational community and others involved in veterans' education. We have also met with representatives from the educational community and will continue to meet with them to resolve problem areas within the requirements of the law. These comments will be given close consideration prior to our issuing final regulations.

I would next like to address the new power of attorney restriction. Public Law 94–502 amended 38 United States Code 3101(a) to provide that where the payee of an educational benefit check has designated the address of an attorney-in-fact as his or her mailing address, and has given such attorney-in-fact the authority to negotiate the benefit check, such an action is held to be an assignment of the benefit and, as such, is prohibited. Appendix D, revised, contains the implementing instructions for this portion of the law. This restriction on the use of the power of attorney came about because we found many abuses occurring in connection with instances where school officials, their banks, or agents had the authority to receive and cash the beneficiary's benefit check. We found situations involving correspondence training where the veteran was signing the certification of lessons in advance, and the school was certifying in advance that they had serviced these lessons. The VA then paid for this training, with the veteran or dependent never having seen the check or being aware that it was issued.

We have notified all correspondence schools that we will not accept enrollment or reenrollments that show the school's address or a post office box or sales office address as the veteran's mailing address. The check must show the payee's home address. We also informed these schools that where an address other than the payee's is shown in running awards, they must certify to the VA that they do not have a power of attorney to cash VA educational benefit checks, and further, that they will not exercise check-negotiating authority under any power of attorney previously accepted.

We think that this change in the power of attorney provision is a necessary requirement to prevent further misuse of veterans' educational benefits. We believe this change in present law will go far to curtail these abuses.

Advance payment has been radically changed by Public Law 94–502. Effective June 1, 1977, no advance payments may be made to any eligible veteran or person unless the veteran or person specifically requests such payment. Up to this time, the claimant could receive an advance payment automatically unless he or she specifically asked not to receive it. The new law does not require that financial need be established before an advance payment is issued. Nevertheless, the change in law should substantially reduce the number of advance payments since a specific written request must be submitted by the student. In addition, the school must agree to receive and process the advance payment and the VA must find that the school can meet specific requirements of law relative to proper delivery and certification of delivery of advance payment. Also, the request for advance payment must be received at least 30 days before the start of a term. In addition, there must be at least a full calendar month break between terms before an advance payment may be made. Unless these conditions are met, an advance payment will not be made.

Another provision of Public Law 94–502, related to advance pay, is the prepayment of educational benefits. Prepayment of benefits will no longer be allowed as of June 1, 1977. As revealed in the hearings before this subcommittee last year, prepayment and advance payment of GI educational benefits has been the only program offered by the Federal Government wherein payments are made to claimants before the fact. Congress, in 1972, in enacting Public Law 92–540 responded to an expressed need by many veterans to receive their benefit money as rapidly as possible. It became apparent, however, over the next several years, that while these provisions helped solve one set of problems, they created another.

The General Accounting Office report of March 19, 1976, entitled, "Educational Assistance Overpayments, A Billion Dollar Problem—A Look at the Causes, Solutions, and Collection Efforts," found that advance pay and prepay were both significant causes of the overpayment problem. Based upon a sample of overpayment cases, the GAO reported that, "21 percent of the total overpayment amounts were the direct result of either advance payments or prepayments to individuals certified as having enrolled in approved educational programs." The termination of prepayment and the new requirements for advance payment was a congressional response to these problems.

Apart from those amendments in Public Law 94–502 intended to insure program integrity, were a number of provisons which liberalized benefits for veterans and eligible persons. These provisions include the approximate 8 percent increase in benefits and the increase in maximum entitlement from 36 to 45 months. Additionally, work-study has been liberalized so that now the veteran, with the approval of the Administrator, may complete his or her work-study agreement even if the veteran ceases to be a full-time student. A student who stops all training may complete the portion of the contract for which money has been advanced. The maximum monthly tutorial benefit has been increased from $60 to $65; and the overall maximum increased from $720 to $780.

The maximum direct VA education assistance loan that may be granted in 1 academic year has been increased from $600 to $1,500. The total amount of loan to an eligible veteran or person may not exceed $292—as opposed to $270 previously—times the number of months of educational entitlement remaining to such person. The interest rates of these loans have been lowered. Reporting fees for reports and certifications prepared by institutions and training establishments have been increased by $2. The fees were increased from $3 to $5 per student for regular reports and from $4 to $6 per advance payment student.

The new law also permits payment for the first time, of benefits for a period between successive terms—not to exceed 30 days—when a veteran or eligible person transfers to another institution and pursues a similar program at the second institution. Days in this period will be counted as absences in the case of courses not leading to a standard college degree, however.

With regard to our vocational rehabilitation program, chapter 31, previously applicable time limits on the eligibility of seriously disabled veterans have been repealed. Now, the VA may provide vocational rehabilitation training to a blinded or otherwise seriously disabled veteran when this is determined to be necessary, based upon the veteran's disability and need for vocational rehabilitation.

The Dependents' Educational Assistance Program has also been affected by Public Law 94-502. The period of eligibility for certain categories of eligible persons in that program has been extended from 5 to 8 years. Additionally, under certain circumstances, eligible dependents may now receive educational assistance for an extra 12 weeks, compared to the previous 9 weeks.

Mr. Chairman, I would now like to summarize our thinking about Public Law 94-502. It would be a simple enough task for you to enact legislative benefit increases every few years, make some minor changes in the law, and continue along just trying to get checks out on time, in the right amount, to the right address. However, Congress has recognized that we owe more than that to the veteran. We owe more than that to the American taxpayer. Certainly, many of the "thou shalls" and "thou shall nots" of this law are not popular with the educational community. However, our experience over the last several years—and it has been a hard experience—has pointed out the need for specific legal provisions enabling us to more effectively administer the program. And we believe Congress has exercised wisdom in enacting provisions which protect the integrity of this program which have resulted in cumulative expenditures of over $22.3 billion. Many aspects of the law prior to present law needed to be firmed up. Public Law 94-502 did this for us. Some who are objecting today are forgetting the history of abuses and overpayments that have regrettably tarnished an otherwise excellent program.

Mr. Chairman, this concludes my presentation. My associates and I will be pleased to respond to any questions you may have.

Mr. Mottl. Thank you, Mr. Thornton, for your excellent statement. Does the gentleman from New York, Mr. Walsh, have any questions of Mr. Thornton at this time?

Mr. Walsh. No, Mr. Chairman. I am sorry I was late. I was at another committee meeting. I probably will have some as I get a chance to read the testimony.

Mr. Mottl. We will come back to you, Mr. Walsh. The gentleman from Wisconsin, Father Cornell?

Mr. Cornell. Thank you, Mr. Chairman. It is my understanding from appendix M that if a student is taking a regular course aimed at a degree and wants to take other courses—audit them or take a noncredit course—he is prohibited from doing so. Is that correct?

Mr. Thornton. He is not prohibited from taking the course. We are prohibited from paying him benefits for the course if it is not going to be something that is generally accepted as necessary for fulfilling the requirements of his stated objective.

Mr. Cornell. Despite the fact that he is taking what would be considered a normal course load?

Mr. Thornton. If he is taking 12 or more hours that are accepted as fulfilling the requirements toward his degree, he can take anything else that he wants to. We would not object to that.

Mr. Cornell. I see. Is a veteran prohibited from taking a double major as a consequence of this regulation?

Mr. Thornton. No sir. The law specifically provides that where a program is approved as a double major by the State approving agency and the veteran so states that double major as his objective, then we do pay benefits for it. That is defined in the law under "program of education."

Mr. Cornell. Despite the fact that it may not be a necessary double major?

Mr. Thornton. Well, generally a double major would be one where the person is working towards an objective that requires degrees which are closely related and where the school has established a combination program. Quite often colleges have established programs where a veteran may concurrently receive a bachelor's degree and a law degree. Sometimes there are combinations which would result in a law degree and a master's degree program. They have such combination programs at some of the schools and where those courses are approved as combination programs, they can be pursued by veterans under the GI bill. That is specifically covered under the "program of education."

Mr. Cornell. Let us take a hypothetical case: say a young man is going to major in psychology but has very definite interests in the field of philosophy. Of course he realizes that philosophy, as far as making a living, would probably be very valuable. [Laughter.] Would he be permitted to take a double major like that?

Mr. Thornton. In all probability, he would have to state that, I have an objective of a bachelor's degree or a master's degree in psychology and whatever is prescribed in the program by the school for that degree would be acceptable. Within the framework of most college degree programs, there are a number of electives and we certainly have no objections to him taking philosophy courses as a part of those electives.

Mr. **Cornell**. Of course the number of electives required normally would not be sufficient to meet the requirements of a double major program—that is in normal circumstances, unless the courses could be counted both ways.

It was a common occurence during the 27 years that I was teaching in college that we would have students whose objective was to teach and they found it necessary to extend their attendance at the institution over 4 years in order to be able to meet the various requirements of getting a teaching certificate—which included courses specified by the State—in addition to the fact, of course, that they had to qualify to teach in certain fields. As a consequence, where 120 credits, if you use the semester credit system, were normally enough to get a bachelor's degree, we found that 142 credits were necessary to get a bachelor's degree and a teaching certificate. Would that be approved?

Mr. **Thornton**. If the student stated that his objective was to become a teacher and if, in that State, the licensing requirement was for 142 hours, he would certainly be permitted to take them. A student is allowed to take, under the GI bill, and receive benefits for the program that is generally accepted as necessary to reach the objective which he has stated. He may state an educational objective, a vocational objective, or a professional objective.

Mr. **Cornell**. Would you clarify for me the distinction that is made between advance payment and prepayment?

Mr. **Thornton**. The advance payment is the payment that we refer to at the beginning of the school term. In other words, if the school term begins on September 10 and the student asks for an advance payment, we would send the check to the school for delivery to him upon enrollment for the 21 days in September and all of October. This would be an advance payment. Thereafter, under the prepayment system, he would get his November check on November 1 rather than at the end of November. This will be terminated under Public Law 94–502, effective June 1, and we will not have prepayment at the beginning of each successive month.

Mr. **Cornell**. I see. Thank you, Mr. Chairman.

Mr. **Mottl**. Thank you, Father Cornell. The gentleman from California, Mr. Hannaford.

Mr. **Hannaford**. Thank you, Mr. Chairman. Mr. Thornton, did you consult at some length with the colleges and universities before issuing appendix O and appendix M?

Mr. **Thornton**. I do not recall that we specifically had a meeting on appendix O and appendix M. Both of them rather closely follow the law, except that there are specific examples given in them which make them look like they are rather complicated. In appendix O we went into rather great detail to show the schools that the fact that a student receives one "F" or two "F's" does not mean that under Public Law 94–502 they are going to have to report him as making unsatisfactory progress because there is a possibility that he could make up the work in subsequent terms. So, the publication was rather long and involved.

We did have a meeting with a group of people from the educational community last week. We discussed appendices M and O and how we might revise them. We published them in the Federal Register and asked for comments on them. We have received comments. We have agreed with the educational community that they will appoint a small group of people to see if they can work with us and arrive at a more simplified version of appendix O.

Mr. HANNAFORD. Then we are making progress on the something over 100 letters that I received from colleges and universities on O and M I assume?

Mr. THORNTON. We hope we are.

Mr. HANNAFORD. I was not aware that it had been published. I would like to see what was published. Let me see. If you take a pass/fail course and you fail it—and that is where you are talking about a punitive grade—the course would count; but if you take a course that is credit/no credit and receive the no credit grade, then that course is not allowed. Is that correct?

Mr. THORNTON. If the school does not use the no credit course in any way in determining the progress of the student toward graduation, then we would consider that a nonpunitive grade and we think that under Public Law 94–502 we would be prohibited from paying for it just as we are for an audit course.

Mr. HANNAFORD. I would express the view, as perhaps an overly compassionate teacher, that I do not think the purpose of a grade is punishment. I hope that as this is worked out, the Veterans' Administration comes to the same conclusion.

Mr. THORNTON. When we refer to a punitive grade, we mean any grade from an "A", "B", "C" or any grade that is counted toward satisfying the requirements for graduation.

Mr. HANNAFORD. I understand that, but it carries with it an implication that the purpose of grades is punitive. As you know, most of the institutions of higher learning are going to a nonpunitive grade system, quite often a pass/fail or a credit/no credit system.

It is extremely difficult, of course, to put yesterday's standards of grading against today's practices; but these practices are being imbibed by the greatest institutions in the country for, I think, sound pedagogical reasons—the psychological effect it has on the attitude of education. Time was when education was like medicine—it had to taste bad. I think a lot of things have changed in that regard.

So, as you work out these matters of O and M, I hope that you consider today's practices and I am glad to see that you are doing so.

Incidentally, I am very pleased with a lot of the implementations that you have here in terms of our directives of the education last year.

Mr. THORNTON. Thank you. I would like to say that yesterday afternoon I did met with two representatives of the educational community in California. They have an organization out there and they are interested in what we are going to do with appendices M and O. They did agree to go back and work with the task force that they have and to write me some specific suggestions that they think would be helpful to us in making revisions on that. So we expect to hear from Califorina on that.

Mr. HANNAFORD. Thank you very much, sir.

Mr. MOTTL. Thank you, Mr. Hannaford. Before I recognize the gentleman from Ohio for any questions, I would like to proffer a question on behalf of the gentlelady from Massachusetts. As I stated before, Mrs. Heckler is unable to be with us this morning because she is co-chairing the food price hearings for the Joint Economic Committee.

She has asked me to call to your attention a letter she received from Boston University. It reflects what the University finds to be a serious problem with the 2-year rule. But briefly, the school fears that application of the 2-year rule to its branches overseas—branches now serving our citizens overseas—the heart of the problem is—and I quote: "If Boston University desires to initiate a new course at any military base or to open a new program at any base, it will be required to limit enrollment to active duty personnel and their dependents or to face the prospects of none of the enrollees being eligible for veterans' assistance. These circumstances make it less likely that Boston University will be able to offer additional courses in its overseas program. Can you provide any enlightenment with regards to the particular problems such as a waiver possibility perhaps?"

[Delayed response.]

Mr. MOTTL. Or would you like to furnish in writing——

Mr. THORNTON. I would like to furnish an answer for the record on that.

Mr. MOTTL. All right, to Mrs. Heckler and also for the record please, Mr. Thornton.

Mr. THORNTON. All right.

[The following material was submitted for the record:]

VETERANS ADMINISTRATION,
DEPARTMENT OF VETERANS BENEFITS,
Washington, D.C., April 28, 1977.

HON. MARGARET M. HECHLER,
House of Representatives,
Washington, D.C.

DEAR MRS. HECKLER: This is in response to your inquiry on behalf of Mr. Thomas L. Blackburn regarding the effect of the amendment by Public Law 94-502 to section 1789 of title 38, United States Code, on Boston University's overseas courses.

Section 1789(a) provides that benefits may not be approved for the enrollment of an eligible person in any course offered by an educational institution when such course has been in operation for less than two years. Prior to the enactment of Public Law 94-502, section 1789(b), allowed for the following exceptions to this provision:

(1) any course to be pursued in a public or other tax supported educational institution;

(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by the institution;

(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality, or has made a complete move with substantially the same faculty, curricula, and students, without change in ownership;

(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree; or

(5) any course offered by a proprietary nonprofit educational institution which qualifies to carry out an approved program of education under the provisions made for Special Assistance to the Educationally Disadvantaged (including those courses offered at other than the institution's principal location)

if the institution offering such course has been in operation for more than two years.

Public Law 94-502 added subsection (6) to section 1789(b) to allow an additional exception for any course offered by an educational institution under contract with the Department of Defense that (A) is given on, or immediately adjacent to, a military base; (B) is available only to active duty military personnel and/or their dependents; and (C) has been approved by the State approving agency of the State in which the base is located. In the case of overseas branches, however, the approval is made by the State approving agency of the State in which the parent institution is located.

Public Law 94-502 also added section 1789(c) to the two-year operation requirement. This section provides that, notwithstanding provisions of section 1789(b)(1), (2), (3), or (4), the two-year operation requirement must be met by any course offered by a branch or extension of a public or tax supported institution where the branch or extension is located outside the area of the taxing jurisdiction providing support to such institution, or a proprietary profit or proprietary nonprofit educational institution where the branch or extension is located beyond the normal commuting distance of such institution.

The situations explained in Mr. Blackburn's letter to you are correct. Any new course or curriculum offered at any overseas branch (whether a new or old location) must meet all of the conditions specified in section 1789(b)(6) if an exemption to the two-year operation requirement is to be granted. We appreciate the problem which Boston University has regarding this matter; however, since there is no waiver provision in this section and this requirement is statutory, we are unable to be of assistance to Boston University.

It should be noted, however, that those civilians who are not dependents of military personnel and are enrolled in a course which has not been in operation for two-years, may continue to pursue any program in which they were enrolled prior to December 1, 1976, the effective date of this provision, as long as they maintain continuous enrollment in that program. Allowing these students to continue their enrollments will not affect the exemption under section 1789 (b)(6) as long as the school closes the course to new enrollments of civilians on or after December 1, 1976. Also, if the school should decide not to close such a course to civilians, only eligible persons who enroll on or after December 1, 1976 will not be entitled to benefits until the course has been in operation for at least two years. Those eligible persons enrolled prior to December 1, 1976 will continue to be entitled to benefits as long as they maintain continuous enrollment .

Your concern in this matter is appreciated. A copy of this response is also being sent to Congressman Ronald M. Mottl.

Sincerely yours,

A. J. Bochicchio,
Acting Chief Benefits Director.

Mr. Mottl. Thank you. I have one question before I recognize the gentleman from Ohio. This question is in reference to education accounts receivable. I think you supplied for the committee this table, "Education Accounts Receivable", and it is placed on everybody's desk here. You have indicated that the balance of the fiscal year 1977 has decreased from 1976 by $8 million. In the category of dispositions, you indicated that $26 million has been terminated. Would you please tell the committee just how the $26 million was terminated? Were the overpayments referred to by the GAO written off as hopeless or just how were they terminated?

Mr. Thornton. I would like to ask Mr. Carlin to answer that question, please, sir.

Mr. Mottl. Fine. Mr. Carlin?

Mr. Carlin. Sir, on terminations first, they are not written off. We terminate our action to collect the overpayment, but we maintain the overpayment in our records for recovery purposes should the veteran apply for other VA benefits.

Mr. MOTTL. Such as a setoff or something like that?

Mr. CARLIN. Yes sir, if he returns to school, the record of the overpayment is available for offset from his education benefits.

Now, insofar as terminations are concerned, there are two ways of terminating overpayments. One is by, as you mentioned, referral to the General Accounting Office and of the $26 million we referred $5.3 million to the General Accounting Office for their collection action. The balance of $20.7 million was terminated by the Veterans Administration.

Now, if I may just explain why VA terminated them as opposed to referring them to the General Accounting Office. In accordance with the regulations, we only refer to the General Accounting Office those cases of $500 or more where the debtor is receiving a salary or retired pay from the Government and $800 or more where we have a proper address and there is no firm information that the debtor lacks current or prospective ability to pay. If we cannot locate the man, we would not refer it to the General Accounting Office. We must also furnish the GAO a debtor's financial statement plus whatever actions we have taken to collect the debt. The VA can terminate the collection action based on the case itself for those debts which do not meet GAO's criteria.

Mr. MOTTL. Now that $26 million for fiscal year 1977, October–January, represents the loss to the taxpayers of America?

Mr. CARLIN. Not completely, sir, because the General Accounting Office in their collections—and I do not know the figures, but whatever they recover does not go to the VA. It goes in the general fund of the Treasury. We do have veterans who go back to school and we recover some of the debts that way. As I explained, we do not write debts off. We retain them in our records, hoping to collect them at some future date.

Mr. THORNTON. If he should become eligible for compensation or a pension at a later date, this debt is still on record in the VA system and we would offset it at that time.

Mr. MOTTL. Now, the rate of overpayment has been decreasing according to this table, is that correct?

Mr. CARLIN. Yes sir.

Mr. MOTTL. And how substantially has it been decreasing?

Mr. CARLIN. Comparing it month by month, from the 8 months beginning in July, 1976 through February, 1977 with the previous year; it has dropped about $85 million.

Mr. MOTTL. All right. Now, when the prepayments and the advance payments are going to be made at the end of the month rather than at the beginning of the month, will this save additional moneys for the taxpayers of America?

Mr. CARLIN. We anticipate there will be—perhaps not so much in numbers as in dollar value—a substantial decrease. The average overpayment is approximately $600. Now when prepayment is substituted for by postpayment, the new overpayments should be reduced by the stub month plus one additional month as a minimum which should reduce the average overpayment by 40 to 50 percent.

Mr. MOTTL. All right. Would you supply for the record the amount of monies recovered by the GAO? And also for the record, I understood when we had the hearings that there were some indictments finally issued in Chicago for the alleged barber school there. Could you furnish to the committee the results of those indictments—if there were convictions; were any veterans prosecuted and if so, who they were; and what the results were with institutions in regard to liability; the amounts of money which have been recovered or will be recovered in the future? We would certainly appreciate that information.

[The following material was submitted for the record:]

In response to your question, the following information is furnished. To date, four school officials have been indicted. They are the proprietors of Tyler Barbar College, and Mildred's School of Beauty Culture.

Six veteran students have been indicted and are awaiting trial; twenty-six (26) other veterans have pleaded guilty and received probation not to exceed 5 years which shall terminate upon the repayment of imposed restitution. The United States Attorney advises that he intends to prosecute approximately 100 more of the more serious violations. However, to date, these indictments have not been brought. In a number of other culpable cases, the United States Attorney has indicated that if the involved veterans make complete restitution, they will not be indicted. However, if they fail to do so, consideration will be given to indictment. In carrying out the United States Attorney's thinking, in this respect, on February 1, 1977, telegrams were sent to all veterans involved advising them to settle all outstanding Government claims or face possible legal action.

Regarding the money expected to be recovered, the United States Attorney hopes to recover 75 to 85 percent of all funds fraudulently approved. The final amount that will be collected is dependent upon the success of the administrative collection efforts, successful attachment of owner's assets, and whether assets of veterans can be identified and attached.

I would like to recognize at this time—did you have a further response, Mr. Carlin?

Mr. CARLIN. I just had one on what the General Accounting Office has recovered. I am not sure that we can furnish that figure. I will contact the General Accounting Office and furnish the requested information.

Mr. MOTTL. Thank you very much. The gentleman from Ohio, Mr. Wylie. Do you have any questions of Mr. Thornton?

Mr. WYLIE. Thank you, Mr. Chairman. I am not sure that it is a question as much as it is an observation. Back in the middle part of December right after the new law was passed and the regulations promulgated, the head of the financial section of financial services at Ohio State University came to me with the vice president and indicated that they were having considerable difficulty certifying that there was an 85–15 ratio in the classes at Ohio State University.

They had received a communication from the Veterans Administration office in Cleveland to that effect. They pointed out that they could not really comply for each class because they were not certain as to the makeup and besides, Ohio State University is a school with 50,000 students, the largest in the world on campus. So they had a monumental administrative problem and had sought a waiver for a period of time and had not been able to get it.

I called the VA office here in Washington and was referred to a gentleman in Cleveland and so I got them together and they did get the waiver so that they could start their classes early in January and so that the students going to Ohio State could be certified for their GI educational benefits program.

I guess my question is sort of an academic one. Why was there not a better coordination of this waiver provision with the large universities where the chance of abuse is very highly improbable? Two, are you encountering any such problems at the present time, say, with universities that have been in business for 150 years like Ohio State and that are as large as Ohio State and so forth?

Mr. **Thornton.** I do not think we are encountering any difficulty with that type of school at all now, because we did issue a directive that gave the directors of our regional offices authority to waive the individual computation on a course by course basis for any institution that would certify that 35 percent or less of their student population are being supported by the Veterans Administration. This, of course, would have taken care of that university and it took care, we would say, of 95 percent of the schools throughout the country.

I am a little surprised that they had difficulty originally, because our original publication said that if a school was reasonably certain that they did not violate the 85–15 percent, that our regional office could take a statement from the school stating that they were reasonably certain and would accept enrollment documents while the school was gearing up to make the actual computations.

However, under the new rule, a school which meets the 35 percent rule does not have to make that computation.

Mr. **Wylie.** Well, I think the new rule makes a lot of sense to me, especially for an established school like Ohio State University and for some of the other large universities.

I think the hangup came when somebody had to put his name on the line at the university to say that he was reasonably certain that there were no more than 85 percent of the students in each course who were Federal grantees.

Mr. **Thornton.** That was perhaps because of a misunderstanding about what we were defining as a course. Within our publication we did specify that it was the overall curriculum—in other words, an associate degree in business administration, a B.S. degree in engineering or whatever. It was not the individual unit subject that we were referring to in the 85–15 percent publication.

Mr. **Wylie.** I think one of the courses that was mentioned was the Reserve officers training course.

Mr. **Thornton.** Which of course is a unit subject or is a set of unit subjects——

Mr. **Wylie.** Under your definition now, but at the time they were not real sure.

Mr. **Thornton.** It was always our intent to be that way.

Mr. **Wylie.** It was?

Mr. **Thornton.** Right.

Mr. **Wylie.** Okay. Well, anyhow, it has been cleared up and I am glad to hear that it has been.

One other thing: in your statement, you say that there has been abuse—or there is possible abuse of turning the educational assistance program into an income maintenance program. Could you please tell us what type and level of educational institutions have been guilty of this? Are you talking about correspondence course-type institutions now?

Mr. THORNTON. Not necessarily. I think that the records that you looked at in this subcommittee last year indicated that at some of our schools where they have gone to more open-door admissions policies, nonpunitive grading—there is in most institutions of higher learning no attendance taking—we found that at some schools, veterans were enrolling; never attending school: getting an "F"; reenrolling the next semester; and apparently not attending at all. In fact, I believe your committee had records from one institution of high learning which showed a number of students displaying this very pattern.

Mr. WYLIE. Have correspondence schools posed a particular problem for you?

Mr. THORNTON. There was one thing in Public Law 94-502 that I did not touch on in my statement. There is a provision in there providing that we will not pay benefits for a course that is offered through correspondence unless it requires at least 6 months to complete. We asked the schools to look at the records of their graduates over the last 2 years and see what percent of the students completed the course in less than 6 months. We said that if 80 percent of them completed it in less than 6 months that generally we would not consider it to be a 6 month course.

There were roughly 280 correspondence schools on our approved list at the time the law was enacted and so far 84 of the schools have certified that their courses do meet the 6 month requirement.

Mr. WYLIE. Has anyone asked you the question as to precisely what constitutes a nonpunitive grade? Did you ask that question?

Mr. MOTTL. Mr. Hannaford did.

Mr. WYLIE. I will look at the record on that then. Thank you very much, Mr. Thornton.

Mr. MOTTL. Thank you, Mr. Wylie. The gentleman from New York. Do you have any questions at this time, Mr. Walsh?

Mr. WALSH. Yes, I do, Mr. Chairman. Thank you very much. In previous testimony a year ago and again this year, we discussed the abuses that have occurred in the veterans' educational program. Last year we heard testimony about the unwillingness or the reluctance of some of the educational institutions to cooperate with the Veterans Administration and it was their reluctance to cooperate in many instances that permitted the overpayments to occur. They expressed, in some cases, an absolute reluctance to cooperate with the Veterans Administration in providing records. Now does that condition still exist?

Mr. THORNTON. I would say that we have a dialogue going with the educational community through the organizations generally located over at 1 Dupont Circle: the American Council on Education; AACRAO; the American Association of Community and Junior Colleges; the Land Grant Colleges; and so on. Representatives from those groups have met with us and they have sent information to their constituent schools about these meetings and things which are discussed. I think that the lines of communication are better now than they were a year ago; I think the cooperation is better; and I think that the number of overpayments that we are charging as potential liabilities against schools are decreasing because of this increased cooperation that we are getting from the schools at this time.

Mr. WALSH. Has the Veterans Administration taken any steps to make certain that these reluctant institutions are going to be a little more willing to supply the information in the future other than the meetings with the associations that you have talked about? Has anyone from the Veterans Administration gone out and visited the schools and insisted on cooperation?

Mr. THORNTON. Yes, we are conducting throughout the country liaison visits with our educational institutions. We have appointed a liaison representative at each regional office to work with the schools and to cooperate with the schools. We have included in our contract with the state approving agencies this year for the first time that they must make a visit to each institution of higher learning that is approved and go over with them the provisions that they are supposed to meet in order to enable veterans attending these schools to be eligible for benefits under the GI bill. So we are working with the schools.

We, of course, have on many campuses veteran representatives who are immediately available to the school and the veterans to answer questions.

Mr. MALONE. Mr. Walsh, could I elaborate just a little further on this?

Mr. WALSH. Yes, go ahead. I have another question, but go ahead.

Mr. MALONE. The schools displayed some reluctance because of the Privacy Acts or a provision in the law often referred to as the Buckley amendments. Because of this provision they were reluctant to release their school records of nonveterans. I believe that was one of our biggest problems. An amendment that was included in 94–502 has cleared up a lot of the hesitation the schools have shown in that area; because it says that in spite of the Buckley amendment, the Veterans Administration is entitled to see the nonveteran record. I think this relieved the minds of many of the school officials who had felt that they might have been held liable along with the school if they made the nonveteran record available.

Mr. WALSH. Well, I think the reluctance went a little deeper than the Buckley amendment. I think it applied in cases where some professors, for instance, refused absolutely to take any attendance records. They said that that was not their responsibility to report whether a veteran was in class or not in class. We had testimony last year that some of these schools just would not supply attendance records.

Now, I think what the committee would like to be assured of is the fact that we are now going to prevent these abuses from occurring again rather than trying to correct them after they have occurred as has happened in the past. Now, can you give us any assurance, Mr. Thornton, that the Veterans Administration is working daily with the universities to prevent these abuses from occurring?

Mr. THORNTON. We are, except that we cannot dictate school policy. We are prohibited by law from supervising the schools. We cannot tell a school that they must take attendance and most institutions of higher learning do not require that their professors take attendance. Some schools have gone to attendance-taking. I know that recently I saw a young man at a clothing store and he asked me what I did and when I told him, he said, "what has the Veterans Administration done to our college?—they are calling roll now every day." So some schools are doing it, but most institutions of higher learning I would say do not take attendance.

We did work with representatives of the school groups and we told them that if their schools did not take attendance, we would still require a report when a student interrupts, whether he officially withdraws or not, and that we would expect that to be to us within 30 days. We have published alternatives for the schools. The schools may use records of papers which a student submitted to show that he was in class. They can if they want take attendance records. They can take a statement from an instructor to the effect that he knows for a fact that the student attended. In the absence of any other, they can take a reasonable statement from the student stating, "yes, I did attend through October 15" or whatever date is applicable.

Mr. WYLIE. Would the gentleman yield?

Mr. WALSH. I would be glad to yield, Mr. Wylie.

Mr. WYLIE. Thank you. In your opinion, Mr. Thornton, do you think that appendix M is achieving the intended purpose of ending abuses such as students being paid while not attending class or opting at the last minute for a nonpunitive grade?

Mr. THORNTON. Well of course, the first term has just ended and the law became effective on December 1, so we really have not had a chance to assess its effects. I think that the schools, being aware of this, will caution students against taking audit courses. I think the schools will have already refused to certify audit courses because we have told them that we will not pay for them. The nonpunitive grade courses we will no longer pay for. I think that the schools will counsel the students and determine that there are mitigating circumstances in most cases; so I think that it will prevent a lot of these cases from coming to the point of creating an overpayment against the student.

Mr. WYLIE. Thank you.

Mr. WALSH. Mr. Chairman, I am still concerned about prevention rather than treatment after the fact. Is there any way this committee could recommend or request from the Veterans Administration some type of followup on these matters so that we could be assured, say, at the end of next semester or in June, or I do not even care if it is 9 months away, that they are taking steps and that these conditions have been corrected and the students are in fact getting an education with the money that we are paying out? I would like to have some type of assurance from the Veterans Administration that this is being done.

Mr. THORNTON. I would like to say the Public Law 94–502 requires us to make a compliance survey at each institution of higher learning that enrolls 300 or more veterans under the VA program. This is one of the things that we will be looking at; the date that the veteran terminated, the date that the report came to the Veterans Administration, whether or not there were mitigating circumstances, whether or not there should be an overpayment, and things like that. So we will be monitoring it from a compliance survey standpoint.

We are requiring a report towards the end of the school year which is either made by the school or by our veteran representatives on campus which will verify from the school records that the student did in fact remain in school throughout the term. So we are monitoring it, yes sir.

Mr. **Walsh**. Thank you, Mr. Chairman.

Mr. **Mottl**. Thank you, Mr. Walsh. I think Mr. Walsh has an excellent point. I think, as you stated in your direct testimony to us, that we have made some vast improvements through the Congress here and that it is up to you, the Veterans Administration, to carry out the intent of Congress and make sure that these programs are monitored and that the taxpayers are not going to be ripped-off and that the veterans—the 95 percent of them who do want a bona fide education—will secure it. So we have a lot riding on you people to carry out the intent of 94–502.

I would like to recognize my colleague from Wisconsin, Father Cornell, for additional questions at this time.

Mr. **Cornell**. Well, I would like to preface my question by remarking that apparently my esteemed colleague and dear friend, Prof. Hannaford, has a little different philosophy of education than I do. I do not consider the grading system that we have in our institutions of higher education today or what they call "criteria of academic achievement" as being progressive. I see good signs of changes at the secondary level and I hope that the post secondary level will reverse and catch up with them.

Now, to give you an example of what I mean, there are quite a few institutions today that use the courses as a basis for determination rather than the credit system. One institution with which I am familiar requires 32 courses and a student can enroll in these courses and drop out at any time prior to the final examination and there is no record kept in the permanent record of the student—no record at all—that he even attempted the courses. The only record there is, is on the report that they receive—that they had attempted the course—but not on the permanent record. Now, this institution, of course, has provisions so that within a certain period of time—for instance at the end of the first year—they have to have completed so many courses satisfactorily.

Now I would gather that the Veterans Administration accepts whatever standards the school sets for the determination of progress, is that correct?

Mr. **Thornton**. We accept their standards and if their standards would not cause us to terminate benefits earlier than Public Law 94–502, then we use Public Law 94–502 which says that he is progressing at a rate that will allow him to graduate within the time frame based on the training time that has been certified to the Veterans Administration. In the case of the course that a student takes where there is no record of it in his permanent record, that would be considered a nonpunitive grade. It is one that, unless there were mitigating circumstances, we would create an overpayment in his account based on Public Law 94–502.

Mr. **Cornell**. I see.

Mr. **Thornton**. For that particular unit subject.

Mr. CORNELL. Even though there is no record at all that he ever even took the course.

Mr. THORNTON. We would have been notified originally that he was enrolled in the course and we would have authorized benefits based on the fact that he was pursuing that course.

Mr. CORNELL. Then you do not necessarily and automatically accept the statement of the institution that he is a student in good standing or is making normal progress, is that correct?

Mr. THORNTON. Under Public Law 94-502, we have asked the schools through appendix O to tell us when he is not making progress at a rate that will allow him to graduate within the time frame based on the training load that he is carrying. Now, this may mean that they would have to notify us of unsatisfactory progress at a date earlier than they would have to notify us using their own standards.

Mr. CORNELL. Do you anticipate—and this relates to a question asked earlier—that you will get cooperation in this respect from the institutions?

Mr. THORNTON. We certainly hope to and we have, as I mentioned earlier, scheduled additional meetings with people from the educational community. We do not have a date set yet. They are to call me to arrange the date of the meeting to see if we can work out something that the schools can live with and still be in keeping with the intent of Public Law 94-502.

Mr. CORNELL. Thank you, Mr. Chairman.

Mr. MOTTL. Thank you, Father Cornell. The gentleman from California, Mr. Hannaford. Do you have any additional questions?

Mr. HANNAFORD. No; I have been adequately rebuffed by my colleague here. [Laughter.]

Mr. MOTTL. The gentleman from Ohio. Do you have any additional questions, Mr. Wylie?

Mr. WYLIE. Mr. Chairman, I have three questions on correspondence schools with reference to certification, compliance, recordkeeping and so forth which I will submit for the record. If you will answer them for the record, I will appreciate it.

Mr. THORNTON. We will be glad to submit answers for the record.

[The submitted material follows:]

Question. Does Appendix D seem to be correcting the problem—or the abuses— posed by correspondence schools?

Answer. Appendix D addresses the problem of indirect access to proceeds of VA checks. As of April 1, all but some two dozen correspondence schools have certified that they will not accept a power of attorney to cash VA educational benefit checks, and they will not exercise check negotiating authority under any power of attorney previously accepted. We fully expect that compliance with Appendix D will correct the problem of indirect access.

Question. Have "Correspondence Schools" posed a particular problem?

Answer. VA Studies have shown that correspondence school trainees exhibit the lowest completion rates and one-fifth (22 percent) of those trainees who discontinued did so because the training was not what they had expected. The transitory completion rate for them does not exceed 35 percent. Median earnings of correspondence trainees showed only a slight increase due to completion. Our experience has been that many times the correspondence portion of combination courses is worthless. It frequently bears little relationship to the residence portion of the course. The overall completion rate for correspondence training as of December 31, 1974 was 41.2 percent.

A smaller proportion of correspondence trainees take jobs in the fields in which they train than do other types of trainees—about 60% versus 83% for those completing their respective training. A smaller percentage use their training than any other type of training.

The marketing of correspondence courses by large numbers of salespersons in locations all over the world can lead to widespread abuses. Complaints received by the Veterans Administration, the Federal Trade Commission, the Office of Education and other organizations and agencies indicate that schools and agents of schools are utilizing false, misleading, and deceptive advertising, sales and enrollment practices. Many complaints concern the sales tactics used by the sales representatives of the schools. These practices may include misrepresentation of the course material; false promises of employment; emphasis on "special bonus gifts" such as tool kits, TV sets, etc., rather than on the course itself; failure to inform the enrollee of the total cost of a course and of all obligations incurred; and obtaining signatures on blank and undated forms. Cases of forgery, fraud and conspiracy to defraud the government have also been documented. In a September 1976 report forwarded to Congress of facilities utilizing advertising, sales, or enrollment practices which are erroneous, deceptive or misleading, seven of the fifty-one institutions reported offered correspondence or combination courses.

Question. From your experience—how much of this "misuse" and "abuse" should we accept as willful—and how much poor administration on the part of offending institutions?

Answer. Because of frequency of occurrences by some schools some would appear to be willful. In others it would appear the "abuse" and the "misuse" was due to poor administration on the part of the offending institution.

Mr. MOTTL. The gentleman from New York, Mr. Walsh. Do you have any additional questions of Mr. Thornton?

Mr. WALSH. I have no further questions, Mr. Chairman.

Mr. MOTTL. Thank you very much. Mr. Thornton, you have a figure in your testimony of $22.3 billion as the cumulative expenditure for this educational program. Could you supply for the record—or right now possibly—what the amounts in overpayments, resulting in a loss to the taxpayer, has been out of this $22.3 billion?

Mr. THORNTON. Mr. Carlin?

Mr. MOTTL. Mr. Carlin, do you have that?

Mr. CARLIN. We can work that up, sir. We have that data available.

Mr. MOTTL. Fine. If we could get that by each year in a cumulative figure, we would appreciate it.

Mr. CARLIN. Now when you say, "loss", sir, do you mean that which we have not recovered?

Mr. MOTTL. Yes, not recovered at all.

Mr. CARLIN. Fine sir.

Mr. MOTTL. The Chair, as well as the other members of the committee, will furnish to Mr. Thornton questions that hopefully will be answered and placed in the record.

[The questions and answers follow:]

Question 1. What would be the alternative to the 85–15 rule as presently provided to enable the VA to prevent the establishment of courses for veterans only?

Answer. The basic rationale underlying the 85–15 rule is that an educational course should be of sufficient worthiness on its merits to attract a minimal number of students who do not have access to VA benefits to pay the cost of the course. This minimal assurance of educational purpose to the course would control establishment of courses purely to enroll veterans and therefore profit at Federal expense.

We feel that this mechanism is sound, as evidenced by the current number of questionable courses in difficulty due to 85–15 requirements, and we would not recommend abolition or replacement of the rule. It could be modified to make its intent more direct and administration easier.

Question 2. You have indicated that a number of changes have been made in the regulations with respect to the implementation of the 85–15 rule. Is it an accurate statement that a great majority of educational institutions offering courses and training for veterans have now accommodated to the 85–15 rule, and that for the most part those who are still objecting to the 85–15 rule are offering courses that come within the scope of what was contemplated by the extension of the 85–15 rule?

Answer. Most courses either meet the 85–15 rule or the educational institutions offering them have been able to take advantage of one of the waivers which has been authorized. For the most part those who do not meet the 85–15 rule are offering courses that come within the scope of what was contemplated by the extension of the 85–15 rule. Some schools are objecting to its application in principle, although, in fact, their courses meet it.

Question 3. The purpose of the G.I. bill is to provide veterans who have served in the Armed Forces during the Viet Nam Era readjustment assistance for the time lost while serving in the Armed Forces. The objective is for a veteran to achieve a vocational, educational, or professional goal. Educational program administrators have indicated over and over again that 85–15 and two-year rules are denying low-income students the education and training contemplated by the G.I. bill. Has any information reached the Veterans Administration that veterans, especially low-income veterans, are being denied the educational opportunity intended by the G.I. bill because of the extension of the two provisions, the 85–15 and two-year rules, to tax-supported and degree-granting institutions?

Answer. Special Assistance for the Educationally Disadvantaged is exempt by law from the 85–15 and two-year rule. The educationally disadvantaged are usually low-income individuals. Other than in connection with claims for educational loans, the Veterans Administration does not gather information on the income levels of veterans applying for educational assistance. We have no basis for stating whether or not the 85–15 rule or the two-year rule has affected veterans at one income level more than any other.

Question 4. A number of educational institutions have written the Committee that the Veterans Administration is only concerned with the "classic approach" to education. How has the Veterans Administration replied to objections leveled at the VA which bluntly state the VA is behind the times and not keeping up with so-called "emerging educational methodologies" and similar such descriptions of educational courses being offered for veterans but disapproved because such courses do not comply with the law.

Answer. Since the origin of the G.I. bill, the basic prerequisite for approval is that the course constitute a program of education. The term "program of education" is defined, in part, by section 1652(b), title 38, United States Code as "any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective." Although this may be considered a traditionally oriented definition, it is inclusive enough to cover most modern methodologies. Likewise, in this same manner, specific approval criteria can generally encompass modern methodologies. For example, regulatory requirements were adopted within the framework of the G.I. bill to provide for independent study prior to Public Law 94–502 which codified this regulation.

I believe that the G.I. Bill, in fact, is flexible enough to encompass nearly all proven, quality education which is offered within a structured framework which will permit the efficient administration of educational assistance allowances. Although unstructured, continuing education, especially of an experimental nature, has a definite value for both society and the individual student, its inclusion in the G.I. bill (which is formally named a Readjustment Benefits' Act) has never been seriously contemplated.

Question 5. Please inform the Subcommittee of all meetings the VA has had with the Office of Education regarding inclusion of BEOG and SEOG in computing 85–15 requirements.

Answer. The VA had no meetings to my knowledge with the Office of Education on this matter prior to the enactment of PL 94–502.

Question 6. How many schools waived because they have fewer than 35 percent of their students who are veterans at the same time have courses where more than 85 percent of the students are receiving veterans assistance?

Answer. 205 schools fit in this category, as determined by polling all field stations.

Question 7. Many have written to the Committee stating that the 85–15 rule, which is aimed at providing quality education for veterans, is an interference of the education process by the federal government. The 85–15 rule was originally enacted in 1952 and at that time applied only to non-accredited courses not leading to a standard college degree. Subsequent to 1952 there has been a sharp increase in the number of accrediting agencies which have granted accreditation to the majority of proprietary below-college-level schools whose courses are approved for the enrollment of veterans. It is the accreditation process which previous to Public Law 94–502 kept the majority of schools from coming within the scope of the 85–15 rule. Many educational institutions complain that the 85–15 rule is the wrong way to protect the veteran. Do you have any comments to make to the proposal that this Commitee should look into the accreditation process? To say it another way, if the 85–15 rule does not accomplish its purpose, to protect the veteran and the taxpayer, what is the Veterans Administration's response to the suggestion to the Committee to make an inquiry into the accrediting agencies to determine if the veterans are receiving the readjustment assistance contemplated by the G.I. bill?

Answer. It must be remembered that from the point of view of the accrediting agencies accreditation is a voluntary means for institutions to set the characteristics, the qualities, and the manner in which those institutions seeking and holding membership are judged. It provides means of assessment which encourages institutional improvement and response to the needs of an institution's constituencies. This outlook makes benefits to veterans and taxpayers incidental to the purpose of the agencies.

While we would have no objection to the Committee making an inquiry into the accreditation process, per se, we would hesitate if the purpose of the inquiry were to give the Veterans Administration a controlling or monitoring interest in the accreditation process. The Accreditation Policy Unit of the Office of Education already does monitor the accreditation process in connection with compiling the Commissioner of Education's list of recognized accrediting agencies.

Question 8. On February 10, 1977, the Washington Post reported in some detail the lucrative adult education market in the Washington area in an article entitled "Far Away Colleges Move In on Area." It indicated that institutions such as LaVerne College of California, Nova University of Fort Lauderdale and Upper Iowa University from Iowa, to name but a few, were offering a wide range of courses in the Washington, D.C. area. A number of comments were made which may be analogous to the problems of the Veterans Administration in approving courses for veterans by institutions far from the institution's main campuses. For example the article indicated that some students are being shortchanged by schools that are more interested in selling diplomas than offering an education. The article also indicated that deans of these out-of-State schools have said that these "universities without walls" are a means of survial for financially strapped schools. Typically, these out-of-State schools operated by renting a suite in a local hotel and offering degrees for courses that will attract area residents. The article did not state that veterans were attending the extension courses described in the Washington Post article, a copy of which is attached. To your knowledge are the extension courses offered by these institutions referred to in the article approved by the VA for veterans? Secondly, if not approved, would you tell the Subcommittee the reasons why these courses do not meet the requirements of the G.I. bill.

Answer. The courses offered by St. Thomas College at its Fairfax extension leading to a Master's degree were approved by the Virginia State approving agency effective August 2, 1976. However, effective December 1, 1976 the VA ceased accepting new enrollments, because the courses have not been offered for two years.

Courses offered by Lindenwood Four at its Washington extension leading to the Bachelor of Arts, Bachelor of Science and Master of Arts Degrees were approved by the District of Columbia approving agency effective January 19, 1976. Shortly after then the VA stopped processing new enrollments, because

Lindenwood Four does not have a license to operate in the District of Columbia. Having such a license is an additional approval criterion of the District of Columbia approving agency. Even if Lindenwood Four were to obtain a license, it would have to comply with the two-year rule.

It has been our policy that if independent study requires interaction with instructors located at an educational institution's home campus, the State approving agency where the home campus is located has approval jurisdiction. The courses Upper Iowa University offers in this area are considered to be independent study and are approved by the Iowa State approving agency. Nova University offers many courses which consist of independent study alternating with residence training at the university's main campus in Fort Lauderdale. These courses are approved by the Florida State approving agency.

The courses Rocky Mountain College offers in this area are not approved, because the college has never applied for approval for them.

Although LaVerne College has applied for approval for courses offered at several of its out-of-State branches, it has not applied for approval for its courses offered in this area. Therefore, these courses are not approved.

Question 9. Did the VA contact officials of State approving agencies and work with them prior to issuing procedures concerning provisions such as the 85–15 and two-year rules? Also provide a step-by-step analysis of how regulations or procedures are approved within the VA and how much input is received from representatives or groups outside the VA, such as SAA's.

Answer. We are not aware of any contracts with officials of State approving agencies to develop procedures implementing the 85–15 or two-year rule prior to their issuance by the VA.

Initial guidance on the formulation of regulations and procedures to implement a change to the law is provided by the Director and senior staff members of the Education and Rehabilitation Service. This guidance is based on a careful reading of the statutory language and attention to the intent of Congress as expressed in committee reports, hearings, and contact with committee staff members.

Particular provisions of the law are then assigned to junior staff members for detailed development of regulations and procedures. The development process includes interaction with other VA elements such as the General Counsel, contacts with other appropriate Federal agencies, and further consultation with Congressional committee staff members. During this phase of research and development, the most important extra-governmental group consulted is the academic community which will feel the effect of the new rules. A major channel of input from the academic community is formal meetings with representatives of numerous academic associations. In addition, further information is received by the VA through informal conversations with academic association representatives and representatives of individual schools.

The approved regulations are then published in the Federal Register for comment by all interested parties. Due to the increasing complexity of administrative procedures required to implement changes in the law, the VA now publishes such procedures in the Federal Register in addition to regulations. The comments received are analyzed and in some cases regulations and/or procedures are changed in accordance with new information brought to the VA's attention. It is during this process of comment and response that input from State approving agencies has its major impact on VA policies and procedures.

Question 10. During the hearings by this Subcommittee in the 93rd Congress, it was pointed out that in many instances veterans were attending school semester after semester without receiving a passing grade point average. Notwithstanding, these veterans were declared to be in good standing and making satisfactory progress. Now under a provision of P.L. 94–502, no payment can be made for a course for which the grade assigned is not used in computing the grade point average or requirements for graduation. This provision has been assailed as being arbitrary and capricious. Others have labeled this provision as a failure to recognize that times have changed and that the grading system now in use by many schools reflects the needs of the modern day students in our complicated society. What is your reaction to these charges concerning this particular provision?

Answer. We fully acknowledge that there has been an increasing trend toward nonpunitive grading systems. Although the Veterans Administration respects educational philosophy, our administrative experience has clearly shown that some sort of punitive progress standard for Veterans Administration purposes (and I wish to emphasize that this is exclusively for our own payment purposes) is essential to protect the integrity of the G.I. bill. This provision of Public Law 94-502 (which amends 38 U.S.C. 1780(a)) is to allow administrative control over our program where schools do not provide for punitive standards of academic progress. This is essential since a fundamental principle of the G.I. bill is that all training must lead toward a definite educational, vocational, or professional objective. In addition, since exclusion from GPA considerations is a common characteristic of nonpunitive grading systems, it is significant to note that this exclusion does not necessarily prelude payment. Not only will a finding of mitigating circumstances allow payment, but also other academic requirements such as requiring a percentage standard based on the number of credits earned with respect to the number attempted. We believe this gives schools which embrace a nonpunitive grading philosophy various alternatives for ensuring that veterans and other eligible students will receive benefits for all unit subjects which are attempted.

Question 11. Has the Veterans Administration satisfactorily completed its negotiations with educational institutions who were holding a large number of G.I. bill checks sent to the institutions before the clarification on the nonassignability provision which went into effect on December 1, 1976?

Answer. It is our position that the law requires all educational assistance checks which are in the possession of or received by any school on or after December 1, 1976, must be delivered directly to the veteran or eligible person for his or her disposition. It is our policy that if for any reason a check cannot be delivered to a veteran or eligible person, it must be returned to the Treasury Disbursing Center. This provision of the law and our policy are the subject of several lawsuits. Consequently, we are unable to say when this matter will be settled satisfactorily.

Question 12. Is the educational loan program utilized by veterans attending schools where the GI bill payments are insufficient to cover the costs of tuition, books, and fees only at high-cost schools?

Answer. Preliminary examination of the number of Education Loans disbursed (RCS-22-8, 1st quarter FY77 and cumulatively) by area and by regional office, compared with average costs for tuition and fees by geographical area and for selected schools supports the premise that the greater proportion of loans are for attendance at low cost schools. Generally speaking, "high cost" schools are equivalent to private four and two year IHLS, while "low cost" corresponds to tax-supported (public) IHLs.

Question 13. What is the impact of the new provision requiring a veteran taking a correspondence course leading to a vocational objective having to be completed in not less than six months?

Answer. Prior to implementation of the six-month normal completion time requirement, roughly 280 schools as of 12/31/74 offered in excess of 550 correspondence courses which were approved for veterans benefits. Currently some 84 schools and about 370 courses are certified to be in compliance with the requirements of Appendix A.

Question 14. Have you had any reaction to the provision that schools' catalogs submitted by institutions to State Approving Agencies must contain a school's progress requirements for graduation?

Answer. Although this provision of Public Law 94-502 constitutes a new approval criterion for accredited courses, it sets no specific requirements that schools' standards of progress must meet. Consequently, in a very real sense, this criterion may be viewed as an informational requirement. Moreover, whatever help this may prove to be to State approving agencies and the Veterans Administration in performing our respective functions, this purpose is secondary. The fundamental purpose seems clearly to insure that veterans and other eligible students will have ready access to this information. As part of the general trend away from traditional educational concepts, some schools have generalized this information or perhaps even deleted it when preparing catalogs. In other instances, traditional standards have been stated even though they may no longer be applied in a meaningful manner. For these reasons, we believe that this requirement is worthwhile and should certainly not be considered as an infringement on academic freedom.

Question 15. What is your reaction to the proposal that the 50 percent rule regarding vocational training courses should be extended to vocational courses offered by degree-granting institutions?

Answer. We believe such a proposal merits serious consideration. They basically remain vocational courses, yet, VA vocational course rules do not apply in these instances. Students can train at 6, 9, 12 quarter or semester hours, while NCD trainee needs 22–27 hours per week. When 50% employment requirement was implemented, many veterans who were enrolled in one year certificate programs which were part of 2 year associate programs simply enrolled in the two year program, which was exempt from the 50% provision. Some community colleges converted vocational courses to two year associate programs in what amounts to circumvention of the legislative intent. Education and Rehabilitation Service has had complaints from a number of vocational schools about the inherent inequality of the law in this instance.

Question 16. This question is in reference to education accounts receivable. You have indicated that the balance for Fiscal Year 1977 has decreased from 1976 by about $8 million. In the category of dispositions, you indicated that about $26 million has been terminated. Would you please tell the Committee just how the $26 million was terminated? Were the overpayments referred to the GAO, written off as hopeless, or just how were they terminated?

Answer. The terminated category of dispositions refers to those debts on which collection actions are no longer pursued or have been referred to GAO for further collection actions. The debts are not written off and remain in the VA records and are available for recovery should the debtor return to school or is granted compensation and pension benefits. Of the $26 million disposed of as terminated, $20.7 million did not qualify for referral to GAO and were terminated by the VA, and $5.3 million were referred to GAO. Recovery of terminated debts has been effected, for example:

a. GAO in late June 1976 set up a special group to process the education debts referred by VA from the Centralized Accounts Receivable System at VAC St. Paul. The following are the results for the period July 1976 through January 1977:

Cases on hand where demand action will be taken during the next several weeks	$5,096,700
Cases on hand where demand action has been taken, but time period for response is not over	3,703,350
Collections or collecting	2,255,400
Referred or designated for referral to Justice	1,686,300
Dismissals (debtor cannot be located or cannot pay, statute of limitations applies, etc.)	197,400

b. During the period 7/1/76 through 12/31/76, of the $29,989,838 terminated by the VA, $3,891,973 were recovered.

EDUCATION ACCOUNTS RECEIVABLE

[Dollars in thousands]

	Fiscal year—						Transition quarter	Fiscal year 1977 October to January
	1971	1972	1973	1974	1975	1976		
Balance start of year	$8,406	$13,972	$20,155	$60,580	$123,764	$220,204	$429,907	$445,034
Established during year	32,987	50,785	142,411	269,027	446,332	883,372	183,136	211,536
Total available	41,393	64,757	162,566	329,607	570,096	1,103,576	613,043	656,570
Less dispositions:								
Cash collections and offsets	25,998	41,831	98,121	197,286	333,485	631,308	153,037	191,078
Waivers and compromises	97	199	543	907	894	2,590	1,251	2,591
Terminated	1,330	2,572	3,322	7,650	15,513	39,771	13,721	26,063
Total dispositions	27,425	44,602	101,986	205,843	349,892	673,669	168,009	219,732
Balance end of period	13,972	20,155	60,580	123,764	220,204	429,907	445,034	36,838
Percent of collections and offsets to establish	79.0	82.4	69.0	73.3	75.0	71.5	83.6	90.3
Percent of total dispositions to establish	83.1	87.8	71.6	76.5	79.0	76.3	91.7	103.9

Mr. MOTTL. Any other comments?

[No response.]

Mr. MOTTL. If not, we will stand adjourned. Thank you very much.

[Whereupon the hearing was adjourned at 11 a.m.]

REVIEW OF PUBLIC LAW 94-502, THE VETERANS' EDUCATION AND EMPLOYMENT ASSISTANCE ACT OF 1976 AND THE VETERANS' EDUCATION AND TRAINING PROGRAM

TUESDAY, APRIL 19, 1977

U.S. House of Representatives,
Subcommittee on Education and Training
of the Committee on Veterans' Affairs,
Washington, D.C.

The subcommittee met, pursuant to notice at 10:08 a.m., in room 340, Cannon Office Building, the Honorable Ronald M. Mottl, acting chairman, presiding.

Mr. Hannaford. The meeting of the Veterans' Affairs Committee will come to order. I am going to try to restrain and control this very large, active subcommittee and try to keep order.

The first witness to appear before the subcommittee in our review of the Veterans' Education and Training Program were Veterans' Administration officials on March 29 and 30.

The Veterans' Administration witnesses limited their testimony to a review of the provisions of the Veterans' Education and Employment Assistance Act of 1976 with particular emphasis on those provisions which have caused some problems in the educational community.

Today, the subcommittee will hear representatives of educational institutions and associations with representatives of veterans' organizations and program officials scheduled to testify tomorrow.

Our first witness is Mr. Jack Davis, who will be speaking on behalf of public-supported vocational, technical, and training schools.

I would point out, Mr. Davis, that we have six witnesses testifying, and you may testify in whatever manner you wish in order to express yourself best. We have your very fine statement here. If you wish to read it, you may. Or if you wish to present it and comment on it, you may.

In as much as I have this rare opportunity to be chairing this meeting, I am going to take advantage of it to recognize a leading educator in the State of California and a leading citizen of my district, Dr. Steven Horn, of California State University at Long Beach.

Dr. Horn, it is good that you could be with us. Perhaps we will be hearing from you later.

If you would then proceed, Mr. Davis, in whatever manner that you choose.

Mr. J. DAVIS. Thank you, Mr. Chairman. I am Jack Davis, vice president for Student Services, Asheville-Buncombe Technical Institute, Asheville, N.C. With me is Jim Kiser, coordinator of student services program, South Carolina State Board for Technical and Comprehensive Education. Along with Mr. Niles Compton of Fayetteville Technical Institute in Fayetteville, N.C., we form a two-State committee for veterans' affairs.

By way of introduction, we would like for the committee to know that we have been actively involved in veterans' legislation for many years. Throughout this period in working with Mr. Oliver Meadows and his staff, as well as with the Senate committee, our interest has been first and foremost to assure for our veterans quality education and equitable treatment under the law.

As these are oversight hearings, our effort today will be to make the committee aware of the impact on institutions of higher learning created by certain provisions of Public Law 94–502 and the interpretation of other provisions of this law by the Veterans' Administration. We feel that much of this impact is unnecessary to accomplish the purpose that your committee and Congress intended. It is our purpose to reflect accurately the magnitude of these problems and to offer some alternative solutions which will accomplish the desired objectives without undue burden on the Veterans Administration and reputable institutions which, we might add, are in the preponderant majority in this country. We would quickly point out that we are in accord with the necessity for safeguards to assure equitable treatment and quality education for veterans, but we feel that this can be accomplished without treating all institutions as if they are suspect. Currently, every institution throughout the country is being required to provide its innocence through burdensome procedures when mechanisms already exist and, if properly utilized, will accomplish the desired objectives.

We would now like to approach the areas of primary concern and ask the committee to consider if these circumstances are the committee's intent. The order in which we present these topics does not necessarily reflect our priorities. Mr. Kiser will now present our first two concerns.

Mr. KISER. Mr. Chairman, I will address myself to the 85–15 percent rule. It is our understanding that the intent of the 85–15 percent rule is to keep veterans out of those schools whose programs lead to no viable occupational or educational objective and which have been established with veterans as a primary target group. We would ask, rhetorically, if this is also the committee's understanding?

It is a safe assumption that an institution, whether public or private, which has larceny in its heart would not be at all reluctant to falsify records to show compliance with 85–15. If such is the case, an audit of records is the only sure way of verifying compliance. We would probably all agree that such schools constitute a miniscule percentage of the total; yet, as indicated previously, every postsecondary school in the Nation is required to provide detailed reports on each "course" it offers. This is much akin to a principal who would punish the entire school for the impropriety of one student.

The report of the Senate Committee on Veterans' Affairs which accompanied S. 969 makes frequent reference to "certain schools" when citing abuses of various types. This leads us to think that many of these schools have already been identified. Yet we have reason to believe that these schools are still in existence, offering educationally unsound programs, and are still enrolling veterans who are receiving VA allowances.

In reputable institutions whose programs have been established without regard to veterans as a target group and whose graduates are well prepared to assume positions in the job market, the imposition of 85–15 including veterans' benefits and grants is counterproductive. It may prohibit many good students who are veterans from entering the very type of educational program that this committee and Congress deem most desirable.

One example of this type of program is a vocationally oriented (noncollege degree) curriculum which shows graduate placement approaching 100 percent. Further, it is not unlikely that successful courses of this type will attract a higher percentage of veterans and grant recipients due to this high placement rate. With national attention being focused on the unemployed veteran, and justifiably so, we doubt that the exclusion of veterans and grant recipients from courses with such successful placement records is the intent of this committee or Congress.

It should be noted by the committee that noncollege degree courses of this type are affected by the existing 50 percent placement regulation, section 1673(a)(2). Schools having such courses which place fewer than 50 percent of its graduates can no longer enroll veterans in those courses. Thus again, the 85–15 rule is superfluous and counterproductive.

Another example of the 85–15 rule as a duplication of other provisions of the law is the 2-year rule (section 1789) which requires that schools in certain circumstances operate without VA assisted enrollment for a period of 2 years "to allow the free market mechanism to prove the worth of the courses offered." It is our feeling that the 2-year rule satisfies this requirement without the imposition of 85–15.

We would now like to direct the committee's attention to the provisions of section 1674 concerning standards of progress and conduct. The law passed on December 3, 1974, required that each institution enrolling veterans and/or eligible persons submit to the State approving agency its standards of progress and conduct as a condition for approval of continued veteran enrollment.

These standards were developed in accordance with guidelines set forth in VA Circular 20–75–84 on August 14, 1975. The time lapse between approval of these guidelines, in some cases as late as June of 1976, and the passage of 94–502 was insufficient to allow full implementation, enforcement, and proper evaluation of these recently imposed standards.

Institutions across the country spent untold hours preparing their standards to comply with the guidelines and, in many instances, compromised their own educational philosophy in order to do so. It appears to us that Congress either was not fully aware of the significance of the standards of progress and conduct when approving this amendment or was demonstrating little confidence in the ability of State approving agencies and the Veterans Administration to enforce those standards.

Special note should be made of the fact that the furor which began in the winter of 1976 concerning overpayments was unrelated to the standards of progress and conduct in that all cases of overpayments originated prior to the development, approval, and implementation of the new standards. Moreover, the implementation of appendix O for students continuously pursuing a full-time course of study presents a significant burden for the institutions.

Consider for a moment the problems presented by veterans who must change from full-time to part-time and back to full-time, etc. We note that the Congress realized the added burden to the Veterans Administration created by additional compliance surveys when it recommended that 200 additional compliance specialists be employed. This recommended addition of personnel to the VA staff should give this committee some feel for the added work load imposed on the institutions by these same surveys.

Appendix O only complicates the problem of compliance when State approving agenices are charged by law to insure that standards of progress and conduct, as well as many other provisions of the law, are being applied (section 1775–79). Given sufficient time for these standards to become effective, and through appropriate forceful action by State approving agencies, it is our feeling that appendix O will be unnecessary. I would like to say this regarding the authority of State approving agencies.

If the State approving agents over the country did the job that the approving agency in South Carolina does, the problem would be greatly minimized.

We feel that the addition of burdensome reports to the some 3,000 post-secondary institutions in the country, is not going to cause the sifting out of the abusers.

We don't feel that the abusers are going to incriminate themselves through the submission of these kinds of reports.

Mr. Davis will now present a final concern and recommendations.

Mr. J. Davis. Mr. Chairman, I am sure that most of us in here of our age group attended college on the GI bill, and to our knowledge there has been no gross overpayment problem to veterans throughout the history the GI bill until the so-called Vietnam and post-Vietnam eras. Control mechanisms such as monthly certification cards, which were used until recent years, have been largely withdrawn by the Veterans Administration. During this earlier period the contractual arrangement for appropriate progress and satisfactory attendance was primarily between the veteran and the Veterans Administration. Schools were able to focus on their primary objective of providing a quality education to all students.

As a matter of fact, during that time schools were asked to lower admissions requirements and develop special remedial programs, if necessary, to accommodate veterans. Also during this period, veterans received their benefits by the monthly postpayment method. Congress saw fit in 1972 to institute an advanced-pay and prepay procedure.

The implementation of these procedures coupled with the withdrawal of monthly certification cards largely created the overpayment problem as it exists today. We would like to emphasize that in neither of these situations did the institutions have any control, yet the burden of liability has shifted from the veteran to the institution.

It is our feeling that more responsibility should be placed back on each veteran. Currently, they may just walk out of school under no penalty for failing to notify school officials or the VA. Many enroll for a minimum time and leave knowing that they will get at least 2 month's overpayment and they also realize that this amounts to a 2-year, interest-free loan with a fair possibility of forgiveness of the entire debt.

There is no way, in most cases, that a veteran does not know that he or she is not entitled to receive money when not actively pursuing a course of study. Cashing a check in such circumstances is fraud as defined by section 3502, title 38 of the U.S. Code. This is another existing control mechanism.

To our knowledge, of the thousands of veterans who have accepted such checks only a few have been prosecuted. A large part of the problem in this country today is the tendency away from holding one responsible for his own actions and assigning the responsibility to a group, a school, a union, or the government. We believe that this trend should be reversed, and this overpayment problem is a good place to start.

Now, Mr. Chairman, I would like to present our recommendations. We would suggest the repeal of section 1673(d)—which prescribes the 85–15 rule—and institute audit procedures for schools suspected of being in violation of provisions intended to assure quality educational programs.

Failing this, we would suggest as a compromise the continuation of the current 35 percent policy without BEOG and SEOG people being included. These two categories are beyond the control of the institution. There is no way that we can control the entry and enrollment of these students.

Second, we would suggest to reevaluate authorized accrediting agencies to ascertain if their approval of schools and/or programs does in fact have meaning. We are certainly conscious of the fact that this is not purview of this committee, but perhaps could be taken up with the Department of Education.

No. 3, reinforce the responsibility and authority of the State approving agencies to withdraw approval of programs found in violation of sections 1775–79.

No. 4, repeal the amendments to sections 1674 and 1724 and delete clause (4) in section 1780(a) contained in Public Law 94–502 and allow sufficient time for the approved standards of progress and conduct previously contained in these provisions to become effective and to be evaluated.

The appendix M, as produced by the Veterans Administration, concerns nonpunitive grading. We would like to point out, as we did in the position paper for the House that we did several months ago, that this can create a retroactive overpayment, either in full or in part.

No. 5, require that procedures for monthly certification be reinstated by the VA to coincide with the alteration in advance payment policies and the removal of the prepayment provision to be implemented in June 1977.

No. 6, immediately impose the fraud provisions contained in section 3502 on veterans found in violation of this section.

Mr. Chairman, we would like to commend the staffs of the House and Senate Veterans' Affairs Committees, the VA central office, and the VA regional offices of our respective States for their spirit of cooperation and obvious concern for the veterans of this country.

Everyone involved has exhibited a high degree of dedication and professionalism in working with our small committee.

Mr. Chairman, this concludes our presentation. We appreciate the opportunity to be here today, and we will welcome the opportunity to respond to any questions you may ask.

Mr. **Hannaford**. Thank you, gentlemen, for a splendid statement. It was very well presented. Mr. Kiser?

Mr. **Kiser**. Yes, sir.

Mr. **Hannaford**. In your case against the 85–15 rule—it appears to me that you have quite often vocationally-oriented programs specifically designed for the market of the veterans, and the rule is saying that you cannot do that. It seems to make sense that you would argue in favor of allowing the presentation of a program that is specifically designed for the needs of today's veteran. Is that correct?

Mr. **Kiser**. They are designed, sir, for the market of the successful graduate student, and I think that we should keep in mind that anyone who comes to the institutions which Mr. Davis and I were referring to are first students. They may also be veterans. They may also be people receiving grants, and so on. They are marketed in a field where there is a need for their skills. Usually, these are fields that are available locally in the surrounding community and, as we mentioned earlier, this is the major basis for our even having the program to start with.

So, no, I would not say that it is—that the programs are to market veterans. They are to market students, many of whom are veterans.

Mr. **Cornell**. Mr. Chairman?

Mr. **Hannaford**. Yes, Mr. Cornell.

Mr. **Cornell**. How many instances have you found problems with the 85–15 rule? I appreciate the fact that, as you mentioned, it is hard for you to control the situation, obviously, but in how many instances did you actually have difficulties?

Mr. **Kiser**. Actually, the number of actual instances in which this really was a problem, admittedly, are minimal, as far as exceeding 85 percent. However, there is a principle here that I was trying to get across, and that principle being—I will say it again. These programs were created prior to the influx of veterans. They were created to be able to fill employment needs.

The principle I am trying to get across is that there could very well be a larger number of veterans next year—veterans and grant recipients next year. And, we don't want to be in a position where we close the door to eligible veterans or eligible grant recipients. We just don't want to be put into that kind of position.

Mr. HANNAFORD. The 2-year rule, however, apparently gives you no difficulty. Is that correct, Mr. Kiser?

Mr. KISER. We have not cited any difficulty with the 2-year rule. A lot of schools don't understand it, and I find some problem with its interpretation in our State, maybe—maybe you have it in North Carolina, but once we have explained to them what it really meant, it didn't post a problem—not to our institutions.

Mr. HANNAFORD. I thank you. Does my distinguished colleague from Wisconsin have further questions?

Mr. CORNELL. Yes.

Mr. HANNAFORD. Mr. Cornell?

Mr. CORNELL. I would just like to make a little observation. I notice that you have stressed putting more of the responsibility back on the veteran. I think it should be noted that the hearings we had last year indicated that some of the fault and problems rested with the educational institutions.

The certification that students were in good standing and things of that nature weren't true, so that I do believe that there has to be some type of reporting system. I noticed your complaint about the reports. I don't see how you can get around it, in view of what has happened in the past, in reference to institutions.

Mr. KISER. May I respond?

Mr. CORNELL. Sure.

Mr. KISER. We don't deny the need for controls, and this is one of the reasons that we stand so strongly on the standards of progress and conduct that our institutions all over the country were involved in preparing. I think the strength of these is because the institutions were involved in preparing. This was handled at the grass-roots level—working in concert with our State approving agencies, and then, of course, were passed on to the VA regional offices.

Do you want to add something to that?

Mr. J. DAVIS. Yes; I would like to add one comment, sir, that the standards of progress came about along about the same time the VA started so-called cracking down on the overpayment problem due to the pressures from many, many sources. Most of our institutions were established—procedures were established to handle veterans who were honestly seeking further education.

We found a few cheaters among them, and, of course, I think the pressure that we received from the VA and others helped us to tighten up these procedures, but, yet, to put the liability back on the schools in a circumstance when the schools have no control initially for withdrawing certification cards—that was working just fine. As I said before, to my knowledge, there had been no overpayment problem until the advance-pay, prepay and withdrawal of certification—monthly certification.

They would sometimes have 3 or 4 months' checks before we would have any knowledge that they had actually left the institution.

Mr. **Hannaford.** I take it that one of the problems, then, is that there is no—in your institution—anything like attendance, records——

Mr. J. **Davis.** Oh, yes, we do. We have, since this overpayment problem presented itself, required that all veterans submit an attendance report by the fifth day of the following month. Failing this, they are terminated.

Mr. **Hannaford.** The veteran submits his own?

Mr. J. **Davis.** His own attendance—he is responsible in our institutions to provide us with an attendance report for the preceding month signed by his instructors by the fifth day of the following month, or he is terminated.

We don't question whether he is there or not. Now, this obviously imposes more problems on the VA—that we would terminate him. He would receive notice of this, and then he would come in and prove that he actually was, in fact, there, so we had to recertify him. But, for our own self-protection, we had to institute this sort of procedure.

Mr. **Kiser.** Every school in the country, under the provisions of the standards of progress and conduct, is charged with the responsibility of determining in some way and reporting any changes in a veteran's status of any kind—if it is a change in schedule, or an interruption of his entire program. They are currently charged with that responsibility under those standards.

Mr. **Hannaford.** Mr. Allen, do you have any questions?

Mr. **Allen.** Thank you, Mr. Chairman. I think that it is of use that two of the main recommendations that you have to make—first, that we go back or abolish the prepayment and pay after the fact that they have enrolled or attended school for the month prior to it.

Mr. J. **Davis.** That's right.

Mr. **Allen.** That's No. 1. The second is that we go back to requiring all schools to certify monthly the progress that the veteran students are making, including a certification of their attendance signed by their instructor. Is that correct?

Mr. J. **Davis.** This would be true in regard to the vocational students where attendance reporting is required. Currently, in degree situations, they are not required to report attendance, but they would require the certification of progress.

Mr. **Kiser.** Our recommendation concerning No. 5 actually is the return of what we used to call the cert card, the card that the veteran, himself completed each month and sent in to the Veterans Administration. That was the strength of that particular recommendation.

Mr. **Allen.** How would you suggest that we deal with the problems of institutions—schools—where obviously the State agencies are not doing their job?

For example, last year it was reported to this committee that there was a barber school in Chicago which had about 1,100 students and they had about a dozen barber chairs. There is no way that you can conclude that this was anything but a ripoff, both by the school and by the veteran. There may have been a few veterans who were learning to become barbers, but there had to be a very few with no more facilities than they had in the school.

More recently I had occasion to talk to the father-in-law of a young man in Nashville, Tenn., whose son-in-law was complaining that the school that he was attending really wasn't giving any instructions. He was very unhappy and he was having difficulty with the Veterans' Administration in getting a transfer to a school where he thought he would be getting what he was going to school for, and that was an education.

He complained that most of the time the students played ping pong during class hours, and that one of the instructors, more recently, spent an entire class teaching supposedly advanced students seeking to become electricians on how to use a screwdriver.

Now, do you not think that in addition to having the schools and the accrediting agencies perform their responsibilities, that the Veterans' Administration should closely monitor the operation of these schools to see to it that they are actually giving to the students and to the Government, the taxpayers, what the taxpayers are paying for on behalf of the students?

Mr. J. DAVIS. Mr. Allen, what we are saying is that the State approval agencies already have this responsibility and authority. To duplicate this by the Veterans Administration, the regional offices and so forth, is unnecessary.

At the risk of being facetious, the State approval agencies' pocketbooks are funded by Federal money. I have not seen many times where the Federal Government didn't follow up where their money went—to be sure that the people are doing their jobs.

We would be happy to work with Mr. Stover and others on this committee in any regard that we might. We feel that that should be the major push.

Mr. ALLEN. Well, would you agree or not agree that where the Federal Government is paying the tuition of the student, that there should be some attendance record submitted to the Veterans Administration, at least monthly or quarterly?

Mr. J. DAVIS. I think that if the State program approval offices have approved that institution and its standards of progress, and this institution is upholding those standards of progress, that is all that is necessary.

Now, if that school is in violation of the standards of progress, it is up to the state approval agency to withdraw that approval. They have that authority and that responsibility already on the books.

Mr. ALLEN. Is it not true that a student, whether a veteran or not, enrolls in a class for a course and lays down the money or the Federal Government lays down the money to pay for the tuition, and then skips one-half or 2-thirds or 80 percent of all the classes, in some cases?

Mr. J. DAVIS. Not in the institutions which we represent, sir.

Mr. ALLEN. In your State?

Mr. J. DAVIS. In our two States, and in none of the others that I know of in technical-vocational education.

Mr. ALLEN. Now, you are talking about technical. I am speaking about the others, too.

Mr. J. DAVIS. Are you speaking about the 4-year college?

Mr. ALLEN. Yes.

Mr. J. DAVIS. We are not representing them, sir.

Mr. ALLEN. You are not representing them?

Mr. J. **Davis**. No, sir.

Mr. **Allen**. Well, do you know enough about them to tell me whether or not that happens—that students do go to 4-year colleges and 2-year colleges, looking forward to an additional 2 years.

Mr. **Kiser**. Yes, sir, we know that it has happened.

Mr. **Allen**. And they pay their own money or their dad's money or the Federal Government's money, and enroll, draw their money from the Federal Government, in the case of a veteran, and scarcely attend class at all.

Mr. **Kiser**. Insofar as veterans are concerned—and I hate to keep repeating it, but it is true that the standards of progress address themselves to this kind of a problem.

Even to the extent that an institution is really this lax with all its students, it must develop special procedures for veterans, if they abide by and adhere to those standards that have been developed.

Mr. **Cornell**. Mr. Chairman.

Mr. **Hannaford**. Mr. Cornell.

Mr. **Cornell**. I just want to follow up on one of the questions that Mr. Allen mentioned.

You referred again to your monthly reports that you use to check on attendance of the veterans. When did you implement this program?

Mr. J. **Davis**. In our school, about 2 years ago. We have always required attendance reports of all students. We were not required to do this with the degree people. This has been one of our major concerns over the last several years, the inequity of treatment between the degree people in the same school who do not have to report attendance.

We would not make that discrimination in our school. We required them all along, but not to the rigid time lines that I mentioned before—5 days into the next month.

Mr. **Cornell**. Mr. Allen was referring, of course, to the other types of postsecondary education. For instance, I taught for about 7 years before I came here. We never had any check system. Most teachers never took attendance.

The only way you would have a check up on that would be of course in connection with an examination, but this, obviously, in your particular case, obviated the problem of overpayment.

Mr. **Kiser**. Yes, of course. And, of course, all schools, again, are mandated to have some method for accounting for their veterans through these standards of progress.

Mr. **Cornell**. I have no further questions.

Mr. **Hannaford**. I recognize the lady from Massachusetts, Mrs. Heckler.

Mrs. **Heckler**. Thank you, Mr. Chairman. I would like to have you gentlemen describe the differences between complying with the veteran's standards and complying with other standards that you must in relationship to Federal funding for a student on your campuses.

Mr. J. **Davis**. I don't think we have any quarrel with complying to Federal standards.

Mrs. **Heckler.** Well, what are your experiences? Are the Federal standards and HEW more burdensome or less burdensome than the veterans, et cetera?

Mr. J. **Davis.** I think we are more concerned with the duplicity here than just the requirements themselves. As I mentioned before, the program approval offices already have at their disposal methods to withdraw approval from a program.

We feel that in some cases they may not be doing this, and to have the VA come along and on top of the already existing standards, impose more. we feel is pointless.

Mrs. **Heckler.** The already existing standards imposed by HEW, is that what you are saying?

Mr. J. **Davis.** No, ma'am. Through the standards of progress as imposed by the VA.

Mrs. **Heckler.** By the VA?

Mr. J. **Davis.** Yes, ma'am.

Mrs. **Heckler.** I am asking what about the requirements for grants or student assistance imposed by HEW. You have a procedure which is similar to the Veterans' Administration procedures issued by HEW with which you must conform.

Mr. J. **Davis.** Only to the degree that they must be full time and progressing satisfactorily. They are roughly the same.

Mrs. **Heckler.** The same procedures are exactly the same?

Mr. J. **Davis.** No, approximately the same. We have a financial aid officer who handles those particular things, and I know that they are approximately the same procedure, but I would not want to say that they are exactly the same.

Mrs. **Heckler.** Are you saying that in terms of the SAA requirements that you must satisfy SAA requirements and then VA requirements and they duplicate each other? That is where the duplication is?

Mr. J. **Davis.** Yes, ma'am, that is essentially it. We are having to certify to the State approving agencies that these things will be done. Now the State approving agency comes in and finds that we are not doing our job as we said we would, they have the legal authority to withdraw approval. Then VA comes along and says prove it again, essentially. And they cannot withdraw approval, that is the strange thing. The VA, itself, cannot withdraw approval.

It has to be done through the State approving agencies.

Mrs. **Heckler.** Your recommendation—your first recommendation is the repeal of section 1673(d), which prescribes the 85–15 rule. You would recommend that the VA institute audit procedures for schools suspected of being in violation of provisions intended to assure quality educational programs.

Now, how would you determine the level of suspicion which would warrant these audit procedures?

Mr. J. **Davis.** Well, as we said earlier in the testimony—Mr. Kiser mentioned the fact that the report S–969 which resulted in Public Law 94–502, cited certain schools, "when referring to abuses." And we feel that there are many cases where these schools have already been identified by some method.

Mrs. **Heckler.** You mean there are no abuses occurring in any other schools?

Mr. J. DAVIS. I am sure there must be, but these have been identified. We feel that this would be a much more realistic approach than to expect a fallout of guilty schools from the reports that are now being required.

Mrs. HECKLER. You would say the Veterans Administration should only pursue those schools that have already been identified as violating?

Mr. J. DAVIS. I think that would be a good first step, yes, ma'am.

Mrs. HECKLER. Then how would we deal with the potential violations of other schools that we would not know about?

Mr. J. DAVIS. Through the SAA. They have that responsibility.

Mrs. HECKLER. Isn't there some question about the credibility of the SAA? They had the responsibility earlier, the problem occurred, no remedies were proposed, and it became a serious problem in terms of hundreds of millions of dollars. We are talking about a very substantial amount of money. How can you have reliance on the SAA system when they didn't detect or seek to remedy the problem earlier, which was within their jurisdiction and province?

Mr. KISER. Let me just say this. Their efforts are being very much strengthened at this present time through the advent of the standards of progress and conduct that were developed. We will say again, if they are given a chance to operate, to be applied, and later to be evaluated, I think we will discover a tremendous reduction in this kind of a problem.

Mrs. HECKLER. You are talking about South Carolina.

Mr. KISER. Yes. I am talking about nationwide as far as the standards of progress and conduct that came out of the 1974 legislation.

Mrs. HECKLER. You are advocating a change in the national system based on your experience and knowledge of the system in South Carolina, is that right?

Mr. KISER. Well, I— my experience in South Carolina plus some observation nationwide.

Mr. J. DAVIS. We might further point out that the SAA system worked beautifully until the last 2 or 3 years. And as we mentioned previously, when the Congress put in the prepayment advance pay and the VA withdrew the monthly cert cards, that is when the bottom fell out.

Mrs. HECKLER. It was also the time when benefits were vastly increased. Earlier the benefits covered only the cost of education, not living, and now we have the question of overage, et cetera. You had very few veterans attracted to go to school because they were aware of the fact that their benefits from the Government would not cover their costs.

Now you have a larger number of veterans taking advantage of the increase in benefits. A larger number took advantage of these benefits programs offered by the GI bill.

Aside from that, do you have any figures regarding the percentage of student veterans who are failing to meet the new standards of progress at your institute, and how does this compare with the period prior to the effective date of Public Law 94-502?

Mr. J. DAVIS. No, I would be hard pressed to give specific figures because we really have not had time to evaluate. That is one of our major points, that these things are coming into play. This is actually our first quarter of the suspension policy with regard to the new standards of progress.

Mrs. HECKLER. So you are not able to evaluate them at this point. When do you think you would have enough time that you could have these figures?

Mr. J. DAVIS. I would think within another 6 to 9 months. That certainly would be adequate time to see how they are going to work.

I know, in our institution at this time, we had 87 students suspended——

Mrs. HECKLER. Out of how many?

Mr. J. DAVIS. Out of about 1,600. We have adequate appeals procedures for them, naturally. The result was 19 final suspensions.

It is kind of amusing to us that in most of the legislation in the past there was a statement that the veteran was not to be treated differently from the other students. Now, within the past couple of years, we must make all sorts of concessions because they are veterans.

Our programs are not established with veterans as a target group. They happen to constitute 21 percent of our institution population.

I think, as Mr. Kiser indicated, once the standards of progress are given time, a lot of these problems will solve themselves.

Mrs. HECKLER. What percentage of the total number of courses offered at your institution are affected by the 85-15 provision.

Mr. J. DAVIS. In our particular institution, none.

Mrs. HECKLER. How long has your institution been in operation?

Mr. J. DAVIS. Fifteen years.

Mrs. HECKLER. A question that comes back, one that Mr. Allen pursued—recurs in my mind. How can the Federal Government maintain its responsibility to oversee Federal dollars without having some monitoring of the system? Now your answer would be to allow the SAA's to have control of the system because they have jurisdiction.

I want you to know that the increase which we voted in the GI bill was done after tremendous effort. It did not come about easily.

The reason that many members were opposed to those increases were because of their experiences after World War II with fraud. And they constantly said to us that this will reoccur.

We, obviously, have a responsibility to see to it that Federal dollars are wisely spent. How can we live up to our Federal responsibility?

Mr. J. DAVIS. I think we need to take a look at the position that the State approving agencies find themselves in, in each State. The mechanism there, of course, is beyond me at this particular point to recommend how that might be controlled, but I think that there should be some effort taken to enable the State approving agencies to perform the function that they are there to do.

Mrs. HECKLER. I notice in your recommendations that you seem to place some stress on the responsibility of the individual veteran. Do you feel that the veteran has not been held responsible or accountable sufficiently?

Mr. J. DAVIS. Yes, ma'am, we definitely feel that way.

Mrs. Heckler. In other words, you feel that the thrust is wrong. Instead of placing the emphasis on the responsibility of the institution, it should be on the individual veteran?

Mr. J. Davis. Yes, ma'am.

Mrs. Heckler. What experience do you have to back up that statement?

Mr. J. Davis. Well, I have had numerous students who were withdrawing and I would tell them personally, "You are likely to get 2 to 3 months overpayment. Don't spend those checks." And they would tell me point blank, "That is my damn money, and I am going to keep it and they are not going to get it back."

In one case that is very vivid in my memory, I said, "Look, if I put $540 on my desk here, would you steal it when I walked out of the room?" He said, "Well, that is different." They view it as their money. They are entitled, whether or not—in some cases—whether or not they are in schools.

There is a difference in attitude now, we find, among the Vietnam-era veterans, than there was previously. We feel that it is primarily due to the fact that others have been charged with their responsibilities.

Mr. Kiser. And, of course, in some cases they, in fact, never did have to pay that back.

Mr. J. Davis. Right.

Mr. Kiser. And, of course, in extremely few cases, the section of the law in which they should be prosecuted, was carried out. What is that, 3502?

Mr. J. Davis. Section 3502.

Mrs. Heckler. The enforcement of the law is very, very difficult, particularly in determing which veteran has which state of mind in terms of his attitude, and who is actually pocketing money when they are not going to school, and so forth.

This goes back to dealing with hundreds of thousands, again, of students. It is tremendously difficult for the VA to deal with these problems. The expense of enforcement and the difficulty is enormous. If the VA doesn't enforce it, then they are negligent by Federal standards. So, the easier way to deal with the problem is through the institution.

Mr. J. Davis. Yes, we are aware of this, but certainly, the trend that presented itself with the veterans themselves not being held liable, just multiplied the problem. A few convictions—a few crackdowns in certain personal instances—then the word is going to spread again to not take that money if you are not entitled to it. They are going to take you to court.

Mrs. Heckler. Do you think that the penalty involved and the ethical responsibilities are sufficiently communicated to veterans? Obviously, a lot of it is just common sense. But, how do you deal with the attitudes that some of them have? This is coming to them, whether or not they are going to use it in the right way.

Mr. J. Davis. Well, we have, of course, taken a different approach in recent years. We have the veteran sign a statement that he is responsible to notify our registrar of any change in his status—from full time to part time, from active to withdrawal—and so we are imposing it on the veterans as best we can now.

Mrs. **Heckler.** Would you have a copy of that statement to make available to the committee, please? Can you provide that to this committee?

Mr. J. **Davis.** Yes, ma'am.

Mrs. **Heckler.** And, I would like to have that submitted into the record.

Mr. **Hannaford.** Objection?

Mrs. **Heckler.** Thank you, Mr. Chairman.

Mr. **Hannaford.** Thank you, Mrs. Heckler.

[The information follows:]

ASHEVILLE-BUNCOMBE TECHNICAL INSTITUTE

STATEMENT OF RESPONSIBILITY

I have been informed by the Office of Veterans Affairs that it is my responsibility to report any change in my training time to the Veterans Service Officer. I also understand that I'm being paid in advance by the V.A. and should I terminate my attendance any day, other than the last day of the month, I will be overpaid for the remaining days of that month.

I also understand I will not be entitled to any checks I receive after I stop attending school, and could be liable for fraud if I cash them.

Date ____________________ Signature of Veteran or Dependent ____________________

REPORT OF ABSENCES FOR VETERANS ADMINISTRATION

Please observe carefully: Instructors are to enter all tardies and absences and verify as correct by signature.

Student Name ____________________

Month __________ Day __________ Year __________

Report for Month of ____________________

Class Hours Course Title	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	T	A	Instructors Signature

Total

Student's Signature ______________________________ (To be signed after all instructors have been contacted.)

Mr. **Hannaford.** Chairman Mottl has arrived. I am going to explain a little difficulty I have run into in pinch-hitting for you, Mr. Mottl. I started out by admonishing each witness that we were going to try to limit this to 20 minutes each, and with six members operating under the 5-minute rule, we occupy 30 minutes.

We have done that, and these gentlemen have complied with their instructions and gave good and brief statements. But, I have left your plans in shambles. The committee is going to have to restrain itself somewhat—if you would please resume the Chair, and get me out of this trouble.

Mr. MOTTL. First of all, I would like to thank my distinguished colleague from California for so ably handling the Chair in my absence, and I want to apologize for being late. My plane was held up by an hour on my return flight from Cleveland this morning. If I may make a suggestion, we have a very ambitious schedule here and we may not be doing justice to everyone—I would suggest that possibly each one of the witnesses confine themselves to a summary from here on in, of their statement—and we will insert the statement in the hearing record and then each member will limit himself to two questions and see if we can let everybody be heard.

And, then, if those witnesses feel that they have to have more time to adequately explain their position, then I think we will reschedule another hearing for some other date. But, I would like to have everybody at least have an opportunity to be heard this morning, and if they feel that, to do justice to their cause, that they want to be rescheduled, we will be glad to accommodate them.

The gentleman from Ohio—I guess you have some questions for the witness, Mr. Wylie.

Mr. WYLIE. Thank you, Mr. Chairman. I guess you had to do a little relief pitching in Cleveland this morning, as well as here. Mr. Davis, you raised a question as to whether this committee, and, in turn, Congress understands its own intent when it passed the 85–15 rule.

I would refer back to the intent of Congress in enacting the so-called GI bills of World War II, and the Korean war, and the Vietnam era. What do you see as the intent of those GI educational benefits, themselves?

Mr. J. DAVIS. Well, I think, certainly, to provide adequate education for the veterans to enable them to earn a livelihood. In the case of the institutions which we represent, in a fashion, that is applicable to a local job market, with regard to their own particular proficiencies, and their own particular aptitudes and interests——

Mr. WYLIE. Well, it was educational and professional, as well as vocational goals, and the original intent was to try to bring the GI back into the community which he left involuntarily, in most cases, to further his educational pursuits. Now, in that connection, over the 33-year span that the GI's have benefitted from the program, the taxpayers of the United States have spent $39.366 billion as of last year, and that is a figure that I got from the VA office yesterday.

It might be of some interest for everyone to know that $20.288 billion of that has been expended since the Korean war. So, wouldn't you say that this committee and, indeed, Congress has a very severe responsibility to ascertain when we are spending that kind of money—$39 billion—to be sure that the taxpayers get what they pay for?

Mr. J. DAVIS. Absolutely.

Mr. WYLIE. Now, you refer to, in your prepared testimony, to the so-called 85–15 rule, and you inquire whether this committee understands its own intent. I quote from your statement, "it is a safe assumption that an institution which has larceny in its heart would not at all be reluctant to falsify records to show compliance with 85–15." Are you aware of the committee's intent—the reason for the enactment of the 85–15 rule last year?

Mr. J. Davis. Yes, sir. To allow the free market mechanism to show the worth of the course?

Mr. Wylie. Well, no, it was to prevent serious and far-reaching abuses in the GI educational benefits program.

Mr. J. Davis. Yes, sir. We are aware of this, but we are also aware that, as we indicated here, if an institution whether public or private, has, as its intent, illicit gain, then they would not at all be reluctant to falsify the reports on the 85–15 compliance.

For example——

Mr. Wylie. Then we would have another basis upon which to enforce the law, and by which to file criminal charges if need be, wouldn't we?

Mr. J. Davis. Yes, sir. But they have to be identified.

Mr. Wylie. Well, how would you have handled the abuses which we encountered last year?

Mr. J. Davis. Well, I think that, as we recommend here, to withdraw the prepayment and advance pay, and the reinstitution of the certification cards—perhaps it should have been done sooner, because, in our judgment, it has constituted a vast majority of the overpayment problem.

Mr. Wylie. Well, we have a little bit of a problem which we uncovered here last year. Many schools were trying to bar abuse of their course, and there is some $2 billion in overpayments outstanding at the present time, and we have to get to that problem, especially when we are spending in the neighborhood of $39 billion.

We thought that the 85–15 rule, which was adopted at the end of the session, to be sure, wasn't all that bad. Now, there were some slippages of years early on in establishing what the 15 percent meant—whether that included one class, two classes, the whole university, colleges, junior colleges, and so forth. But, I think that those rules have been worked out pretty well, as far as Ohio State University, which is in my district, is concerned.

Would you say that we should continue with the 85–15 and 2-year provision?

Mr. J. Davis. Our recommendation in that regard references that as a comparison solution, you could continue the 35 percent policy which is now in existence by the VA, without the BEOG and SEOG people being included.

Mr. Wylie. Oh, you would use the rule, but exclude BEOG's.

Mr. J. Davis. Oh, yes.

Mr. Wylie. I see.

Mr. J. Davis. Very definitely.

Mr. Wylie. Mr. Davis, with regard to your citing the Senate Committee's report, with reference to S. 969, and I refer to page 90 of that report, paragraph 4, which concludes:

> The Congressional budget office estimates that enactment of this section 206 regarding 85–15 coupled with other administrative cost-savings included in the bill would save 31 million in fiscal year 1977 and a total of $151.9 million through 1981.

Keeping that in mind, the enactment of 85–15—was enacted with the objective of ending the abuses which we discovered last year. It wouldn't—a result in savings such as that seem that enactment of that was well justified.

Mr. J. DAVIS. Yes, sir. I think that we indicated the institutions which target the veterans as a population for selling courses—it has a very definite advantage. We, I think, could live with the 35 percent situation, excluding the SEOG/BEOG's.

Mr. WYLIE. Thank you, very much.

Mr. MOTTL. Thank you, very much, Mr. Wylie. Mr. Davis, thank you, very much.

After consulting with the charming lady from Massachusetts, Mrs. Heckler, this is what the Chair has decided to do for the balance of the hour that we have for the hearing, if there is no objection from other members of the committee. We have five witnesses who have not testified. We will allow each witness to testify directly for 9 minutes. Then we will hold all of our questions until all five witnesses have been heard. This will provide approximately 10 minutes for questioning of all of the witnesses in a panel.

And, then, if any of the witnesses would like to come back tomorrow, if they feel that they would like to have more of an opportunity, they can address the subcommittee tomorrow following the veterans organizations.

Yes, Mr. Allen.

Mr. ALLEN. I must ask to be excused from attending. I am supposed to be, at this moment, at banking and finance, I believe it is called now—on financial institutions, and I am supposed to be over there.

Mr. MOTTL. Congressman Allen, we will keep you informed as to the testimony.

Mr. ALLEN. Thank you, Mr. Chairman.

Mr. MOTTL. The next witness will be Mr. Jack Tirrell, the vice president of governmental affairs with the American Association of Community and Junior Colleges of Washington, D.C. Mr. Tirrell, will you come forth, and we will insert your testimony in the record if you have written testimony, at this time. I would like you to introduce your colleagues.

Mr. TIRRELL. Mr. Chairman, as I said to your staff member, the higher education community has been working for some weeks preparing for this day—have spent maybe hundreds of hours, and with the previous witness—from one institution in one State, I guess. Since we represent about 2,000 institutions in about 50 States, we would probably take 50 hours on an equitable basis.

But, we will follow your directive.

Mr. MOTTL. That is very kind of you, and if you need more time either tomorrow, or at some future time, we want to give you all the time necessary to adequately present your case.

[The material referred to above follows:]

PREPARED STATEMENT OF DR. JOHN E. TIRRELL, VICE PRESIDENT FOR GOVERNMENTAL AFFAIRS, AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES

Mr. Chairman and Members of the Subcommittee: My name is John E. Tirrell, Vice President for Governmental Affairs of the American Association of Community and Junior Colleges, representing 1000 institutions in all parts of the United States. With the permission of the Chairman, I would like to do three things this morning. First, submit a written statement for the record, second, include our strong endorsement of the concerns presented this morning by my colleagues, and third summarize our statement and if desired respond to questions by the Subcommittee members.

In the most recent figures we have seen from the V.A., about 60% of the Vietnam veterans receiving educational benefits in higher education were enrolled in two-year institutions. This is a great responsibility for member institutions that we represent. We had almost 4,000,000 credit students last year. The approximately 600,000 veterans, while only about 15% of our credit students, were special for three reasons. First, they had served this country and as for the last 25 years the country by Congressional action had developed and maintained a highly successful "readjustment" program with the educational community. Second, many of the trustees, administrators and faculty of our colleges had personally experienced this program earlier and felt an obligation to provide an equally successful educational experience for these men and women. Thirdly, the favorable position of the community college in our American society today is a result to some extent of the large number of veterans since 1945 wanting to stay at home, to secure more vocational and technical programs preparing them for immediate entry into the workforce and to secure an education with the minimum of their benefits being consumed in tuition costs.

Over the years our institutions have been especially responsive to the needs of veterans. With locally elected Boards of Trustees, with their friends and neighbors well acquainted with every action and expenditure, there is a substantial amount of accountability. In addition, the second largest source of funds is from the State and state budget offices and your elected colleagues in the legislatures review the use of funds. But since 1945 there has been strong support to expand our institutions in size, number, hours of operation, etc., to provide the programs for the WW II, Korean and Vietnam Veteran.

This has required very substantial sums for the capital construction, equipment and operation. The local and state tax sources have provided the overwhelming percentage of these funds. As has been pointed out by the previous testimony, only a very small part of the veterans' benefits are paid to the institution. And in community and junior colleges with an average tuition across the country of about $250 per year, it is at best about one month of the veteran's yearly benefits. The largest number of veterans is in California and as Congressman Hannaford can affirm, there is no tuition for residents of the State at the 104 Community Colleges.

With this close supervision by our local Boards of Trustees, State agencies—administrative, legislative, approval agencies—and national accrediting associations, there has been a demonstrated record over a long number of years of successfully serving the taxpayers. As of June 30, 1976 and 8,000,000 Vietnam veterans had averaged 23.0 years of age and 33 months of active duty service at the time of discharge. These mature citizens have, by enrolling in our institutions, raised the average age of our student body to almost 30 years of age. As after every previous military conflict since WW II, these local and state elected authorities have attempted to provide the best possible educational experience for these men and women who served their country.

It seems doubtful that any Washington agency could better at such distance, make decisions about the policies and procedures that would best serve all students—including veterans. We feel very strongly that some parts of P.L. 94-502 infringe on the legal responsibilities of our local and State boards, establishment of educational policies by the academic community, and represent a turning the back on state approval agencies and national accrediting agencies. Although to date only a few of the 20 + lawsuits in Federal courts are by our members, the pressure is mounting in all parts of the country to "protect our autonomy" and "defend our legal responsibilities" and "challenge the unconstitutional sections of the bill" or "the regulations that have no foundation in the law."

At the present time over 3000 representatives of our institutions are meeting at our annual convention in Denver. I have been there since Friday. By far the greatest problem voiced almost unaniomusly is the problem with P.L. 94-502. I attach a resolution proposed by the Commission on Governmental Affairs and unanimously approved by the AACJC Board of Directors two days ago on April 17, 1977.

Recently, the American Association of Collegiate Registrars and Admissions Officers (ACRAO) assembled a representative group of their members. After an all day study of the current V.A. situation, they concluded: "We strongly endorse the standards of progress filed by institutions in 1975 with the state approval agencies. We believe this method is sufficient to address the overpayment problem, and that institutions which fail to meet these stated standards can be identified by the state approval agencies and de-certified. After this procedure for maintaining standards of progress was developed through considerable effort on the part of the V.A. and the educational institutions, they were never given a trial as the V.A. sought to impose far more burdensome regulations. The educational associations have volunteered to contact problem institutions directly to move them toward cooperation with the standards of progress regulations adopted in 1975."

We plead with this Subcommittee to rectify the actions passed in the late hours of the last night of the 94th Congress, without hearings or other deliberations by the Committee. Carefully considered action is needed here, in this room, to avoid endless hours in Federal courtrooms across the country, interminable wrangling with V.A. representatives in all parts of the country, and the harassment and in some instances the loss of educational benefits by the active duty and retired veteran but especially the Vietnam veteran. If this is not done, the cost, in time and dollars, to the Federal government and the local and State governmental units will be very substantial. It would be unfortunate if one or more of the Federal courts brings the entire veterans educational program to a halt.

Let me elaborate:

1. This program is between the V.A. and the veteran and the institution the veteran chooses has no liability for how the veteran uses the funds, since for the commuting veteran, most is expended for housing, food and other personal needs.

2. AACJC testified here on May 6 ,1976 that we agreed with the GAO that the advance and prepayment were the greatest cause of overpayments and asked you *not* to continue these—at least as automatic for every veteran. You did this and we applaud your action.

3. A number of other proposals were put forth to attack the problem—overpayments. When we understood that there was consideration of extending the 85–15 rule to all institutions, we opposed it on the basis of it not addressing this problem or improving quality and that it was a real threat to denying V.A. benefits in urban areas, graduate education, and many institutions with large numbers of BEOG grants and Federal fellowships for graduate education. The Advisory Committee to the Administrator of the V.A. at its meeting on September 28, 1976 unanimously voted to request the Administrator to oppose the extension of the 85–15 rule to all institutions.

4. I have personally appeared before this Subcommittee on May 6, 1976, and have directly recommended to the V.A. in meetings, the following procedures to aid in knowing exactly what the Veteran was doing.

a. Have Vets "sign-in" each month.
b. Have Vet Reps on campus check Vet.
c. Warn Vet in each check. (Has been done twice).
d. Have Vet send transcript to V.A.

5. The law has led to a number of regulations being promulgated that make all institutions and veterans from Boston University to Long Beach Community College, and from Ohio State University to Navvarro (Texas) Junior College guilty until they prove themselves innocent of any abuse. In the November 1976 *Veterans Education Newsletter* (No. 22–76–3) published by the V.A., on page 2 they state: ". . . It is most important to place the situation in proper perspective by emphasizing: 1. The comparatively small percentage of abuses in the total program . . ." The other 95% of the institutions and veterans now accused are, to say the least, most insulted. The entire program has been changed from advance approval of program entry to a payment process for each increment of education completed.

Specific conclusions (more details in attachment):

1. We find limited problems with the following nine appendices of the DVB Bulletins that implement the new V.A. regulations and can comply as written: A. B. D. E. F. G. J. K. and L.

2. We have submitted comments to the Administrator on January 14, 1977 for revisions to Appendix I.

3. As to Appendix C, we believe an amendment should be enacted to return the monitoring status to the state approval agencies to approve or disapprove new programs—instead of the so-called two-year rule.

4. As to Appendix H, we believe 85–15 should be returned to the previous status.

5. It is our considered opinion that Sections 3b, 3c and 3d of DVB Bulletin, Appendix M violate Chapter 36 paragraph 1782; non-interference with institutional standards. Thus, they should be eliminated.

6. Our research concludes that Chapter 35, Section 1724 and Chapter 34, Section 1674 continues to emphasize that "the regulatory prescribed standards and practices of the educational institutions" should be honored, as in the previous law. Thus, there is no need for Appendix O. The requirement that certification be made to the V.A. as to the length of time required to graduate is done in the submission of the college catalog. Based on research of current students, the Administrator can consider the "mitigating circumstances" that would permit a waiver.

7. In addition, we cannot find statutory authority in Chapter 36, Section 1788(a)(4) to support the additional wording promulgated in DVB circular 2–77–16 on February 9, 1977 titled, "Measurement for Payment Purposes, VA Regulation 14772(D)," that institutions of higher education undergraduate courses are measured by contact or clock hours. The law indicates that measurement of courses for institutions of higher learning undergraduate courses is "on a quarter-or-semester-hour basis."

Let me end with two administrative concerns which have been made before.

1. The current payment to institutions of $5 per veteran for certifying veterans eligibility is not realistic in the 1977 economy. If any part of the flurry of new regulations is to be implemented, this fee would cover less than 10% of the cost.

2. Some errors are made by conscientious and dedicated college officials because they do not honestly know and cannot find the "correct" answer to a problem with a veteran. There are hundreds of bulletins, additions, corrections, from over a number of years.

This Committee could materially aid the process by authorizing (or directing) the V.A. to prepare in one publication: the law, all regulations, all information to legally process a veteran in receiving his educational benefits. This codification of all the interpretations referred to in the 58 regional offices would substantially aid in the reduction of claims—by the veterans, V.A. and institutions. We urge you to do this when you amend this law.

Thank you for your time, attention and thoughtful consideration.

AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES,

Washington, D.C.

The following resolution has been adopted by the American Association of Community and Junior Colleges' Commission on Governmental Affairs on December 8, 1976, and unanimously approved by the Board of Directors on April 17, 1977.

Whereas, there are multiple sources contributing to GI Bill abuses and overpayments, other than the educational institution, which is a conduit in the veteran—V.A. contract;

Whereas, the intent of the resulting VA Directives to curb such abuses has been confusing and has not promoted a more responsible working relationship between the Veterans Administration and the educational institution;

Whereas, any attempts at curbing overpayment abuses should include input from the educational community, student-veterans, accrediting associations, state approving associations and the Veterans Administration;

Whereas, Title 38, Chapter 34, U.S. Code (GI Bill) specifically states that, "No department, agency, or officer of the United States, in carrying out this chapter, shall exercise any supervision or control, whatsoever, over any State approving agency, or State educational agency, or any educational institution . . .";

Whereas, the intent of the GI Bill is to provide opportunities for veterans to obtain education and training as part of a positive readjustment to civilian life;

Whereas, the provisions of the Veterans' Education and Employment Assistance Act of 1976 adversely impact student-veterans and colleges by the inclusion of the so-called "85–15 rule" which through Veterans Administration regulations limits the free choice of veteran-students as to what career goals they may pursue and in some cases which institutions they may attend;

Whereas, implementation of the 85–15 rule generates an enormous recordkeeping effort on the part of educational institutions enrolling student-veterans;

Whereas, the cost of reporting certification of student-veterans is actually between $15 and $30 per veteran enrolled in an institution, and the Veterans Administration is authorized to pay only $5 to $6 per each veteran-student enrolled;

Whereas, the ultimate effect of the legislation and regulations, as interpreted and administered, is to hamper the ability of our institutions to serve veteran-students and negatively impact upon the ability of the veteran to attain their educational goals; *Therefore be it*

Resolved, That the governmental affairs staff of the American Association of Community and Junior Colleges continue to initiate efforts to eliminate and/or minimize the burdensome, unreasonable legislation and Veterans Administration regulations which encroach upon the autonomy of the educational community and the student-veterans they serve.

AMERICAN ASSOCIATION OF COLLEGIATE
REGISTRARS AND ADMISSIONS OFFICERS,
Washington, D.C., April 15, 1977.

RUFUS WILSON,
Chief Benefits Director,
Department of Veterans Benefits,
Veterans Administration,
Washington, D.C.

DEAR MR. WILSON: Following your meeting of March 24, 1977 with higher education representatives, a group was convened to recommend needed changes in the law or regulations so that institutions might be able to respond effectively to the Veterans Administration circulars and bulletins implementing P.L. 94–502. This group included representatives from a large public university, a community-junior college district, two state approval agencies, and from AACRAO, AACJC, ACE, NAICU and AICS.

The group discussed thoroughly the law and the various implementing bulletins and circulars, and attempted to draft recommendations for each. There was consensus that the basic difficulty in terms of institutional cooperation is the shift from approval of educational progress to payment or reimbursement approval which the new law requires. The institutions are quite willing to continue to certify educational progress, as they previously have, by reporting enrollment, interruption, and termination. However, reimbursement approval in our view is approximately a matter between the VA Administrator and the veteran student.

We strongly endorse the standards of progress filed by institutions in 1975 with approval of the state approval agencies. We believe that this method is sufficient to address the overpayment problem, and that institutions which fail to meet these stated standards can be identified by state approval agencies and de-certified. After this procedure for maintaining standards of progress was developed through considerable effort on the part of the VA and the educational institutions, they were never given a trial as the VA sought to impose far more burdensome regulations. The educational associations have volunteered to contact problem institutions directly to move them toward cooperation with the standards of progress regulations adopted in 1975, if these institutions are identified to us. We prefer this approach to the over-regulation of properly operating institutions.

The group expressed concern that even though the law clearly states the primary responsibility of administration to be between the Administration and the veteran student or eligible person, no statutory authority exists for eligible students to request individual waivers.

Specifically then, our suggestions, as identified by the DVB Circular and Appendices, follow:

DVB bulletin 20–76–84	*Group recommendation and comments*
Appendix A	No problem implementing this Appendix.
Appendix B	Do.
Appendix C	We support elimination of 2-yr rule. This would restore to the State approval agencies responsibility to monitor and approve or disapprove new programs.
Appendix D	No change seems necessary. Canceling powers of attorney retroactively seems to have been the biggest difficulty, and several institutions have been successful in resolving this on an individual basis.
Appendix E	No problem implementing this Appendix.
Appendix F	Do.
Appendix G	Do.
Appendix H	We support extension of the present waiver beyond June 30, 1977.
Appendix I	We support the comments in ACE's letter of January 14.
Appendix J	No problem implementing this Appendix.
Appendix K	Do.
Appendix L	Do.
Appendix M	Sections 3b, 3c, and 3d violate chapter 36, 1782: noninterference with institutional standards. The law should be amended to eliminate those provisions.
Appendix N	We feel it is necessary to amend this law, specifically chapter 34, section 202, 1652 and title III, chapter 35, section 302, section 1701 (a)(10), substituting "program of education" for "level academic instruction."
Appendix O	Chapter 35, section 1724 and chapter 34, section 1674 emphasizes that prescribed standards and practices of the educational institution should be honored. Therefore, there is no need for appendix O, which attempts to illustrate examples based on full-time pursuit. The requirement that certification be made to the Veterans Administration as to the length of time required to graduate can be met if reasonable expectation can be set, based on current research, and the Administrator considers this under mitigating circumstances.

In addition, the consulting group could not find statutory authority in Chapter 36, Section 1788(a)(4) to support the additional wording promulgated in DVB Circular 20–77–16 of February 9, 1977, "Measurement for Payment Purposes, VA Regulation 14272(d)," that institutions of higher learning measure undergraduate courses by contact or clock hours. The law indicates that measurement of courses for IHL undergraduate courses is in quarter or semester hours or the equivalent thereof.

Sincerely,

J. Douglas Conner,
Executive Secretary.

AMERICAN COUNCIL ON EDUCATION,
Washington, D.C., April 13, 1977.

Hon. OLIN E. TEAGUE,
Chairman,
Subcommitee on Education and Training,
Committee on Veterans Affairs,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is to comment on the testimony of the Veterans Administration before the Subcommittee on Education and Training March 29 and 30.

The VA spokesman testified that the problems raised in implementing PL 94-502, the Veterans Education and Employment Assistance Act, are being resolved with the higher education community, and that, on balance, the controversial provisions of the law were necessary. We take strong exception to both these judgments.

We understand that the changes made in the law and regulations last fall were designed to end existing abuses of the system by individuals and institutions. The elimination of automatic advance payment of benefits addresses the major cause of abuse, and we support this step. We will continue to work with the Veterans Administration to assure honest and equitable functioning of the system. But we do not believe that the vast majority of veterans and institutions which have been operating in good faith should be harassed and burdened because of the offenses of a few.

The Subcommittee should know that the law as written raises fundamental problems for colleges and universities throughout the nation. We have informed the Veterans Administration that institutions are unable to comply with certain provisions of the implementing regulations, notably the 85-15 rule and the standards of progress requirements.

The VA witness correctly stated that the amended waivers provided for the 85-15 rule have largely resolved that problem for the current academic year. However, he failed to add that we have informed the VA that institutions will be unable to comply with the provisions next year. Without the current waivers institutions would have to set up a separate recordkeeping system to track not only veterans but all recipients of federal student aid by course of study. Institutions do not keep such records; there is no educational purpose to be served in doing so, and they are not prepared to meet the cost of doing so.

We have also informed the Veterans Administration that the proposed standards of progress regulations cannot be met without surrendering fundamental institutional rights to set academic standards, and without incurring further costly and educationally unjustifiable recordkeeping which would limit the resources and administrative time available for the primary purpose of education.

Further, implementation of the two-year rule is threatening to cause termination of college-level programs of education which a number of leading institutions currently offer to United States citizens at overseas military bases.

In short, substantial changes in the law and regulations are absolutely essential to avoid a breakdown of the long history of cooperation between the Veterans Administration and the higher education community which has so well served the national interest and the best interests of veteran students.

This is to alert you to the nature of the crisis which was obscured by the VA testimony. We plan to outline our concerns in greater detail when we appear before the Subcommitee on April 19. We hope that we can anticipate the help and encouragement of the Subcommittee in working out subsequent modifications of the law, to assure that veterans receive the educational benefits to which they are entitled.

Sincerely,

Roger W. Heyns, President, American Council on Education; Allan W. Ostar, Executive Director, American Association of State Colleges and Universities; Rev. John A. Fitterer, President, Association of Jesuit Colleges and Universities; Ralph K. Huitt, Executive Director, National Association of State Universities and Land-Grant Colleges; Lloyd H. Davis, Executive Director, National University Extension Association; Stephen B. Friedheim, Executive Vice President, Association of Independent Colleges and Schools; Edmund J. Gleazer, Jr., President, Amercan Association of Community and Junior Colleges; Charles V. Kidd, Executive Director, Association of American Universities; John D. Phillips, President, National Association of Independent Colleges and Universities; and Msgr. John F. Murphy, Executive Secretary, College and University Department, National Catholic Educational Association.

Mr. TIRRELL. To represent the 2-year and public institutions of this country, the universities, public and private—we have chosen Dr. Robert Kibbee, the chancellor of the City University of New York, and comments on his statement will be made by President Steven Horn of the State University of California at Long Beach, and then I have some 1, 2, 3, 4, specific standards, if it pleases the Chairman.

Mr. MOTTL. Yes. You may proceed.

Mr. KIBBEE. Mr. Chairman, I am Robert J. Kibbee, the chancellor of the City University of New York. I head an institution which enrolls approximately 12,000 veterans on its 17 campuses. The National Association of State Universities and Land Grant Colleges, which I also represent—the Association of Colleges and Universities in New York State, of which I am president, and the Committee on Urban Public Education, of which I am vice president—all of these institutions enroll well over 100,000 veterans.

We have submitted a written statement to you, and I will not try to read that. I am sure that——

Mr. MOTTL. Without objection, that will be submitted for the record.

[The statement follows:]

PREPARED STATEMENT OF CHANCELLOR ROBERT J. KIBBEE, CITY UNIVERSITY OF NEW YORK, ON BEHALF OF AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES, AMERICAN ASSOCIATION OF STATE COLLEGES AND UNIVERSITIES, AMERICAN COUNCIL ON EDUCATION, ASSOCIATION OF JESUIT COLLEGES AND UNIVERSITIES, NATIONAL ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES, NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES, AMERICAN ASSOCIATION OF COLLEGIATE REGISTRARS AND ADMISSIONS OFFICERS

Mr. Chairman and Members of the Subcommittee: In behalf of the hundreds of colleges and universities whom I represent in my testimony here today, let me thank you for the opportunity to present our views concerning the legislation and agency regulations within the purview of this subcommitee. I believe that this subcommittee can only continue to fulfill its responsibilities for providing veterans educational benefits by hearing of the problems and conflicts that exist today between the higher education community and the Veterans Administration.

The principal victims of this breach in relations are the veterans whose service in the military branches of our Nation has earned them an entitlement to certain educational benefits. The overall record of mutual positive activity between the Congress, representing the will of the Nation, the Veterans Administration, and American higher education, has gone on too long and has served both the Nation and the veteran too well to deserve anything but our immediate and total attention to a situation which has festered for perhaps 18 months and now threatens to turn into constant legal conflict in the courts—to the gain of no one.

I need not remind this committee how the first GI Bill productively changed the lives of hundreds of thousands—even millions—of men and women who took advantage of its provisions after World War II. Yet even then, in its earliest days, there were problems: allegations, and in some cases proof, of abuse. It is realistic rather than cynical, I feel, to note that when billions of dollars flow from the U.S. Treasury, some people—and regrettably, some institutions—will try to take illegal and unfair advantage of the situation. The proper perspective, it seems to me, is recognition of how little abuse there has been in this program—and I make this point as an introduction of the thrust of our presentation here today.

Late in the summer of 1975, Members of Congress drew attention to the fact that a large amount of funds appeared to be going to veterans not entitled to receive them because they were not legitimately engaged in pursuit of educational goals as entitled by the law. Through misuse of pre-payment and advanced payment authorities, and by failing to keep the VA properly informed of their education status, a number of veterans undoubtedly did receive funds not due them, and, in common parlance, "ripped off" the American taxpayer.

The Nation obviously could not stand for this situation, even if the amounts were miniscule—and I regret to say the amounts were not miniscule. It was apparent that the Veterans Administration had to take stringent measures to recoup funds illegally obtained *and* to prevent further abuse of the program. Institutions of higher education were notified they would be held accountable if they had not notified the Veterans Administration of ineligible students' status and the Veterans Administration had, as a consequence, sent funds to non-deserving veterans.

That move was the opening salvo in the battle which threatens to erode the relationship between the higher education community and the Veterans Administration—developed over three decades. The Veterans Administration's behavior suggested a quest for targets of convenience: quite understandably, it is easier to bill the City University of New York for half a million dollars than to try to run down thousands of individual students who allegedly had received funds improperly.

The recent decision of a U.S. Federal Court, compelling the Veterans Administration to observe a series of due process requirements in assessing liability, will no doubt move the Veterans Administration to channel most of its energy to prevention rather than redress. We of the education community naturally feel obliged to keep the Veterans Administration informed when we have information relevant to the status of a student and his receipt of benefits —and we, therefore, would have no complaint with a properly applied, fair dose of preventive medicine as opposed to the well-intended, but, in many cases misdirected administrative edicts now dispensed by the Veterans Administration.

Representatives of our associations and their individual representatives have met with the Veterans Administration to work out a resolution of the problem. The institutions put forth several recommendations, including a revival of the post World War II practice of monthly sign-in. There is a so-called "veterans' representative" on many of our campuses, with offices and other facilities made available by the institutions; these representatives serve as a bridge between the student veterans and the Veterans Administration. It does seem that some means could be established to require a veteran to prove he or she was appropriately engaged in educational pursuits justifying the funds received.

Our group made other recommendations as well, but for reasons we cannot determine, our proposals have never been given the kind of hearing we believe they deserve. Instead, the Veterans Administration continues to pursue the institution, and the institution continues to reject demands on its funds when it has in no way abetted the veteran in defrauding the government. I should stress here that the mission of the City University of New York, and of other reputable institutions of higher learning, is education. In our particular case we are struggling through a fiscal crisis that has forced severe restrictions in administrative and instructional staffs. If we have been guilty of instances of administrative oversight, our shorthandedness and not our underhandedness is responsible. The increase in reporting fees the Veterans Administration pays under the new law is in no way proportional to the increase in information required—and it would be physically impossible for us to comply with all the rulings from our regional Veterans Administration office.

I would like to emphasize in this testimony the static in our relationship with the Veterans Administration. When we met with the Veterans Administration in February of 1976 to review the entire matter, we tried to stress one point: the Veterans Administration is mandating that we violate fundamental academic freedoms and basic academic practices. It has dictated rules on attendance, grading standards and rates of progress which in many instances conflict with established University policy. To say that the Veterans Administration mandates are unpalatable is quite an understatement, for they strongly imply that experienced educators don't know their business. I insist that we know our business and the missions of our institutions, and are capable of executing our educational assignments without the unjustified "assistance" of the Veterans Administration. We found it remarkable a year ago, and we find it incredible today, that the Veterans Administration's efforts are so widely dispersed. Rather than place these considerable burdens on the entire system of higher education, the V.A. might do well to direct its energies toward those less than reputable institutions which abuse the system of assistance payments. Those students who knowingly defraud the federal government should be prosecuted; available penalties are severe enough to dissuade others from following suit.

In the past few years the Congress of the United States has taken the leadership in calling upon our community to respond to the real needs of the Nation. There is a new clientele of older, responsible adults who seek educational goals away from the traditional campus and full-time programs. Congress has called upon us to devise new ways of providing educational opportunity. Slowly, but importantly, the institutions have been responding. Veterans Administration officials have reacted to our positive change by challenging the legitimacy of innovative courses for veterans. Harking back to their own experience 30 or more years ago in school, they believe that only the traditional forms of education are proper. Under color of Congressional mandate, they have created regulations which violate the intent of the law. One such regulation has been used to challenge the highly acclaimed satellite programs at John Jay College of Criminal Justice. Also within the CUNY system, we have the Veterans Administration challenging institutions' rights to offer four credit hours unless students are in class for four hours . . . questioning the grading system which is fully accredited and is applicable to all students . . . challenging the institutions' ability to evaluate properly an individual's transfer credits . . . issuing incongruous standards of satisfactory progress, and in general making itself a paper-demanding nuisance to students and to institutions, while in no way helping to end the real abuses.

It is important to stress at this point, too, that we have been using the phrase "Veterans Administration" when in fact there is no such thing. There is a central office which issues regulations, there are regional offices which interpret and misconstrue such regulations, and there are state approval agencies which the V.A. purportedly authorizes to negotiate with institutions but which are totally inconsistent with one another. It is entirely possible for a single regulation to be interpreted 17 different ways at any given time—which means there are regulations which cannot be understood or enforced. This clearly is one of our basic problems. It is becoming more apparent that Washington's directives are lacking in two critical areas: they do not provide tight interpretation of regulations nor do they point Regional Directors in the proper directions. Our colleges have been asked to provide information that they feel is unnecessary and unwarranted under the present law. Regional Directors, we feel, should be given the signal from the Veterans Administration that "discretionary waivers" extend to firmly established, trustworthy institutions do not circumvent the spirit of the law. Quite the contrary, a more liberal use of waivers and a less narrow approach to existing regulations is one method of solving the reporting problems which are so troubling. I hope this subcommittee might express its feelings on regional variations and thereby lessen some of the tensions they cause.

Our other real problem is the much attacked and, we think, incompletely drafted "85/15" and "2 year rule" laws in the 1976 Amendments (Public Law 94–502).

The Congress acted wisely, seeking to provide the Veterans Administration with some tool in the law with which it could end support of students at institutions and programs established solely to take advantage of the GI Bill. The Congress wrote into the provision that it could be waived in whole or in part, affording the Veterans Administration the opportunity of administering this law with judgment. The V.A. unfortunately has given no evidence of possessing that judgment. Its first notification to the institutions unnecessarily included the Basic Educational Opportunity Grants and other grant programs unrelated to the problem, making the veteran a second-class citizen and depriving him of his entitled rights. Several court cases have already indicated the dubious constitutionality of the law interpreted in that fashion.

Again, institutional representatives had met with the Veterans Administration urging them to establish a standard which would aim at the abuser. That is to say, an institution which enrolled fewer than 35% veterans clearly was not the kind of institution that had to be monitored by the 85/15 rule. The Veterans Administration ignored our recommendation until the furor that followed the issuance of their first regulations forced them to acknowledge it—which they did only on a temporary basis and even then, only on a basis of potential waiver rather than an automatic waiver.

The improper application of the 2-year rule can cause more harm through its inhibition of growth than good through its curtailment of fly-by-night educational programs. When a university wishes to bring its curriculum to the people who had previously been geographically beyond its reach, it should be encouraged, not impeded. The specious reasoning in the 2-year rule leads to the conclusion that the main body of a university manifests no control on its far-flung branches. Such is clearly not the case.

I do not believe it necessary to present a whole litany of problems now existing between the higher education community and the Veterans Administration. More to the point is where we go from here. There is no difference between us on the necessity to identify and eliminate abuses. We believe that none of the problems now existing is beyond reasonable solution, once the fundamental guidelines that have existed for several decades are reestablished. The higher learning institutions—comprising the administrators of the camps, the trustees, municipal and state legislators, the office of the governor, state board of regents, academic accrediting agencies—determine proper academic policy. Within that policy, the Veterans Administration has every right to insist on adherence to stated rules for the academic community.

Only two weeks ago, representatives of the Veterans Administration testified before this subcommittee. Their comments suggest that everything is fine with the existing laws and regulations, and that no changes are needed. They imply that the only reason there are complaints is that people do not enjoy being stopped from abusing the law. This is bureaucratic blindness. (Please see attachment) The long train of court cases now numbering more than 20—not the half dozen or so suggested by the Veterans Administration—substantiates the very real problems caused by their administrative practices. Shortly after the new VA Administrator took office, higher education associations wrote to him, suggesting a meeting to identify areas of mutual concern and to establish a program for resolving problems. (Please see attachment) We look forward to his arranging such a meeting soon. We think that is the way to deal with some of the problems. Clearly, this subcommittee should take legislative action to deal with other problems.

During this morning's hearing, the subcommittee will hear from other witnesses who will comment in more detail on specific problems of regulations and laws. I will say at this point that we share the same basic concerns. We believe that great leadership is required to change a growing adversarial relationship into a productive partnership relationship which benefits the Nation as a whole. Because this deals with areas of principle which must be maintained if we are to fulfill our commitment to maintaining a higher education community of academic integrity, we are unable to indulge the bureaucratic gyrations of the Veterans Administration. We take no joy at the prospect of turning to the courts for resolution. This is not necessary, and we would hope that this subcommittee, through its influence with the Veterans Administration, and its authority for amending the existing law, would help restore the relationship between the Veterans Administration and the higher education community to what it was for so many years.

We thank you for the opportunity of presenting these views and will be happy to respond to your questions.

AMERICAN COUNCIL ON EDUCATION,
Washington, D.C., April 13, 1977.

Hon. OLIN E. TEAGUE,
Chairman,
Subcommittee on Education and Training,
Committee on Veterans Affairs,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is to comment on the testimony of the Veterans Administration before the Subcommitee on Education and training March 29 and 30.

The VA spokesman testified that the problems raised in implementing PL 94-502, the Veterans Education and Employment Assistance Act, are being resolved with the higher education community, and that, on balance, the controversial provisions of the law were necessary. We take strong exception to both these judgments.

We understand that the changes made in the law and regulations last fall were designed to end existing abuses of the system by individuals and institutions. The elimination of automatic advance payment of benefits addresses the major cause of abuse, and we support this step. We will continue to work with the Veterans Administration to assure honest and equitable functioning of the system. But we do not believe that the vast majority of veterans and institutions which have been operating in good faith should be harassed and burdened because of the offenses of a few

The Subcommittee should know that the law as written raises fundamental problems for colleges and universities throughout the nation. We have informed the Veterans Administration that institutions are unable to comply with certain provisions of the implementing regulations, notably the 85–15 rule and the standards of progress requirements.

The VA witness correctly stated that the amended waivers provided for the 85–15 rule have largely resolved that problem for the current academic year. However, he failed to add that we have informed the VA that institutions will be unable to comply with the provisions next year. Without the current waivers, institutions would have to set up a separate recordkeeping system to track not only veterans but all recipients of federal student aid by course of study. Institutions do not keep such records; there is no educational purpose to be served in doing so, and they are not prepared to meet the cost of doing so.

We have also informed the Veterans Administration that the proposed standards of progress regulations cannot be met without surrendering fundamental institutional rights to set academic standards, and without incurring further costly and educationally unjustifiable recordkeeping which would limit the resources and administrative time available for the primary purpose of education.

Further, implementation of the two-year rule is threatening to cause termination of college-level programs of education which a number of leading institutions currently offer to United States citizens at overseas military bases.

In short, substantial changes in the law and regulations are absolutely essential to avoid a breakdown of the long history of cooperation between the Veterans Administration and the higher education community which has so well served the national interest and the best interests of veteran students.

This is to alert you to the nature of the crisis which was obscured by the VA testimony. We plan to outline our concerns in greater detail when we appear before the Subcommittee on April 19. We hope that we can anticipate the help and encouragement of the Subcommittee in working out subsequent modifications of the law, to assure that veterans receive the educational benefits to which they are entitled.

Sincerely,

Roger W. Heyns, President, American Council on Education; Allan W. Ostar, Executive Director, American Association of State Colleges and Universities; Rev. John A. Fitterer, President, Association of Jesuit Colleges and Universities; Ralph K. Huitt, Executive Director, National Association of State Universities and Land-Grant Colleges; Lloyd H. Davis, Executive Director, National University Extension Association; Stephen B. Friedheim, Executive Vice President, Association of Independent Colleges and Schools; Edmund J. Gleazer, Jr., President, American Association of Community and Junior Colleges; Charles V. Kidd, Executive Director, Association of American Universities; John D. Phillips, President, National Association of Independent Colleges and Universities; Msgr. John F. Murphy, Executive Secretary, College and University Department, National Catholic Educational Association.

NATIONAL ASSOCIATION OF STATE UNIVERSITIES
AND LAND-GRANT COLLEGES,
March 24, 1977.

MAX CLELAND,
Administrator of Veterans Affairs,
Veterans Administration,
Washington, D.C.

DEAR MR. CLELAND: Although you have received correspondence which names my Association as one in whose behalf such correspondence has been written, I feel obliged to reinforce such communications with the emphasis an individual letter like this may suggest. It is difficult to segregate crises and conflicts which seem to be the norm today in the relationships of the federal government and the education community as we both learn how to live with one another in a very different world than we have lived in for the past several decades. However, the unnecessary, gratuitous, if you will, conflict beginning to rage between the higher education institution community and the Veterans Administration, stands out. The reason is primarily because the increasingly heated conflicts involve problems that are soluble, if only fairly rational people, behaving in good faith, sit down, identify the problems and determine to work them out without threats of decertification on the one hand, going to the courts on the other and other similarly unproductive behavior.

I apologize that, so soon in your tenure as Administrator of the VA, when my instincts are to send you my congratulations and the offer of my Association's assistance in dealing with your new responsibilities, I instead am writing this importuning request for an early audience with you for myself and my colleagues at the major institution-based associations, including such organizations as the American Council on Education, the American Association of Community and Junior Colleges and the American Association of State Colleges and Universities.

Rarely does a day pass now, without a near frantic call from one of my member institutions reporting a new assault on the institution, its integrity, its autonomy, its credibility and its established, and, we think, justifiable manner of doing business by one VA office or another. Rarely does a week pass, without further evidence that there is not a Veterans Administration, but 50 veterans administrations or more, depending on how you count them, each doing business in its own beknighted fashion. What your office issues in Washington are not guidelines, rules or regulations to the field. Rather, they are construed as points of departure, raw materials for the wiser people in the field to reinterpret as they deem advisable. There are no national standards and rules in the Veterans Administration, however much the central office believes that to be the case when they send directives to the field. The VA, from the point of view of our member institutions, has become a new, unauthorized accrediting body, officiously seeking to tell even the most prestigious institutions in the country in some instances, how to determine what a credit hour is, how to evaluate contact hours, when to determine what satisfactory progress is and so on and on, ad infinitum, ad nauseum.

Let me drop back to a most important point, we are fully aware that there has been an wholly unacceptable amount of abuse perpetrated on the veterans' educational benefits provided by the American taxpayer. It is quite possible that in some instances institutions have failed to take all proper precautions which are within their power administratively to cut back on such abuse. Where that is true, it must be identified and ended at once. We have said this in all forms of communication and have offered to assist the VA in every way possible to ultimately eliminate and immediately cut back on abuses of the GI Bill's programs. At the same time, we recognize that abuses tend to be focused geographically and in certain types of institutions, or in certain specific institutions. We see no reason for every one in the United States to embark on a period of self-flagellation when the culprits are known and the laws exist capable of rendering justice and equity. Spokesmen in education argue that from the behavior of the VA during the past few months, there does not seem to be a genuine desire to curb abuses; there seems rather to be a mindless desire to issue ukases which will generate enormous amounts of paperwork and concomitant cost expenditures in increasingly hard-to-come by dollars, without any real impact on those most responsible for the real abuses that do exist.

Approximately one year ago, a large delegation representing the various associations of higher education met with your predecessor and his top staff. During that good meeting, we sought to make it clear that the opposition we were directing toward the VA regulations was not based on arbitrary, capricious or even antagonistic motives. We were not going to do what the VA was requesting, not because we did not want to, but because the fundamental nature of our institutions precluded such action. Several positive moves resulted from that meeting. The same situation prevails today. We believe that each of the problems the VA confronts in dealing with institutions can be worked out. We urge you to call us together at the earliest possible moment, so that we can set about our responsibilities in solving these problems rather than perpetuating the situation, the victims of which cannot be other than the veterans themselves.

Sincerely yours,

JEROLD ROSCHWALB,
Director of Governmental Relations.

Mr. KIBBEE. I would like to just comment on a few major points. I think we should start by recognizing the fact that the higher education community, the Congress, and the Veterans' Administration have in the past been very cooperative—and a constructive relationship.

Going back to the days of the first GI bill after World War II—I believe that a part of that relationship is about to be destroyed because of the rules and regulations that have been submitted and promulgated, as well as some of the legislation that has been passed regarding the veterans.

In all our efforts to deal with the Veterans Administration in trying to get sensible and reasonable regulations promulgated, which we recognize are important—we recognize the fact that abuses occur. We are as anxious as anybody to make sure that those abuses do not continue.

But, we feel that what has been done is that, in attempting to address some abuses, that what is happening is that we are beginning to toss the baby out with the bathwater. The Veterans Administration is the victim of circumstances in this. I am sure it is not the villian. But the real victim, I think, is the individual veteran.

What has happened is that, through the prepayment or the advance payment provisions that have been put into the law, and the failure to inform on status, that there have been large amounts of money which have been taken by veterans to which they are not entitled. What has happened, then, is that the Veterans Administration has not dealt directly with these veterans and has tried to place the onus of this activity upon the institutions as a sort of a target of opportunity.

What has happened in the process is that the Veterans Administration has challenged the grading systems of the educational system. They have challenged our assignment of credit. They have challenged our efforts to offer innovative programs, and they have generally tried to impose their judgment about what is educationally not sound upon institutions which have been at this for a long time.

The thrust of the regulations seem to be—is that the universities and colleges of this country do not know how to do their business and that somebody else must tell them how to do it. I submit that the university community, or a large part of the university community in this country predates the Veterans Administration and has been offering educational programs to the citizens of this country for a long time, to the benefit of the country.

Some of the institutions that are affected by these even predate the founding of this Republic and have been at the business of education for that length of time. We do know what we are doing. We do know how to run our institutions. We do know how to assign a credit, and we do know how to judge the performance of students.

I do not think that we should be guided in this regard by an institution which is not really capable of making those kinds of judgments. There are corrective measures that should be taken. One of these would be to eliminate the prepayment/advance payment provision. Certainly that is something that has contributed largely to the overpayment problem.

I think that we should recognize that the institutions which have been singled out for this are institutions which are trying to identify veterans as a principal target. This is not true of the university community in this country. Veterans, even though they represent a large number of the students in our colleges and universities, are but a minor proportion of those students that we serve.

We try to deal with them the same way that we deal with everybody else. We have not set up programs. We have not set up our institutions to rip off veterans or to rip off the country. I think that that should be the thought that guides both the Congress and the Veterans Administration.

I think that the universities of this country and the colleges in this country are willing and anxious to sit down with the Veterans Administration to try to work out procedures that, first of all, will deal with the abuses, identify what the abuses are and try to deal with those; that kind of a cooperative relationship will also make sure that the universities and colleges of this country are not overwhelmed by a flurry or a deluge of paper activities that are taxing the ability of the institutions to operate.

The question was raised here earlier about the 85–15 rule. If the 85–15 rule were to be enacted as it is and strictly adhered to, I think it would be physically impossible for the city university of New York to do it. It just would be beyond our capacity to handle the paperwork involved.

Ninety percent of our students receive some sort of Federal aid, either in the form of BEOG, SEOG, or in the form of veterans benefits.

Mr. Mottl. Excuse me, Chancellor. Are either one of your colleagues going to make a statement here in your allotted time?

Mr. Kibbee. Yes; I am about to finish.

Mr. Mottl. All right.

Mr. Kibbee. I would suggest that we do have a system whereby the advisory committee set up jointly with the Veterans Administration and with the college community in using people who are actively engaged in how to deal with these problems—registrars, bursars, financial aid officers—to work out a set of regulations which will take care of the abuses, or most of the abuses in the program, and at the same time protect the academic integrity of the institutions, as well as the capacity of the institutions to do their work.

Mr. Mottl. Thank you, Chancellor. Now, we only have approximately a couple of minutes left in your allotted time.

Mr. Tirrell. Well, Mr. Chairman, I think that I should say here that we asked for time for the American Council of Education, we asked for time for ourselves and were compressed to one person and myself. And, I think that this is very unfair to have these people come from California, and New York—I flew back from Denver last night to be here for this hearing—not to have at least time to make a decent statement.

Mr. Mottl. Well, they are going to have time to make a decent statement, but you are here all of the time, so we can hear from you any day. Is that correct, Jack?

Mr. Tirrell. Well, I flew back from Denver to be here and I am flying back to Denver with Congressman Ford because he is appearing at our convention tomorrow, but I can do it again. Can Mr. Horn at least make a comment?

Mr. Mottl. Oh, by all means. I am sorry, Mr. Horn. But, Jack, you are here all of the time, and we can have you next week.

Mr. Horn. Mr. Chairman, I will only take a minute or two, and I would just as soon yield to Jack and the expertise they gathered on a national basis. I am Steven Horn, president of California State University, Long Beach, which is the largest university in California and second largest in the West. I am speaking on behalf of both the American Association of State Colleges and Universities, as is Jack, and the American Council on Education, and, of course, our own 19-campus system.

We are deeply grateful, No. 1, for this committee, and the Congress for what they have done for the veterans over the years in terms of readjustment assistance. I think, as Chancellor Kibbee pointed out, it has generally been a happy marriage and a cooperative relationship, in terms of what the higher education community has been able to do to help people fulfill their own objectives and lead viable lives in this society.

We share any outrage the Congress has or any abuses that have occurred in any type of educational institution. I think that the important point to remember is that most of the accredited higher education institutions in America have not had these substantial abuses. Most are trying to do a job in providing economic opportunity to people that have not had that opportunity before. We would like to see the accrediting agencies of the country, which are made up of the higher education institutions in a given region, deal with these problems.

As Chancellor Kibbee suggested, in closing, we would like to see working parties of people that really deal with the problems at the grass-roots—the veterans affairs counsellors, officers, registrars, directors of admissions—sit down with the VA and try to work through these particular problems. We do not believe that the nuclear bomb approach to the problem, which, very frankly, 85–15 is, as are some of the other regulations, is the way to solve an administrative problem.

We would prefer that a rifle be used and that if that authority remained in the law, it seems to me that the VA should be authorized to give a one-time blanket exception. And, then, if they find abuses, to put that particular institution on report. I would suggest that the abuses are probably limited to less than a few percent of institutions that could even be called postsecondary, many of which have nothing to do with the traditional American higher education community.

When we looked at the original implementation of 85–15, and were asked to say of the 3,000 to 5,000 courses Long Beach offers every year with 32,000 students, please tell us if you have got 85 percent veterans in those courses. I suspect we haven't. We had 3,200 or 3,400 veterans under the GI bill at Long Beach in the last semester, but who knows whether one course might, by chance or happenstance, end up with more veterans in it. We do not offer any courses for veterans, per se.

We offer an educational program to 32,000 students. There is no way, by computer and with course changes going on in the first 4 weeks, that a university such as ours, or even smaller campuses than our system, to comply with that initial regulation. What I suggest as the problem here is that we have had a lack of understanding as to how educational institutions work from within.

We are interested in students making progress toward degrees. But, we have got to realize that in this day and age the typical student is not one that gets out of high school, goes to college, stays there 4 years, and gets a baccalaureate degree at the end of 4 years.

The institutions that Chancellor Kibbee and I represent are large, urban universities where the students sometimes take 10 years for a degree, because half of our students are working full time. A third of them are married. We might not think that they are making the progress that, in the abstract, perhaps, they ought to make. But, we aren't working full time, and perhaps most of us don't also have the burdens of raising a young family and juggling all of these commitments. In that sense, some of the veterans are no different than our typical older student with these different needs in society. And, so, we think that we ought to direct our attention to those institutions that are abusing the veterans situation, and not to the great, overwhelming majority of higher education.

Now, in terms of specifics, reference was made to the credit/no credit situation and how innovative programs are being hampered in a way by VA regulations. The VA claims that no-credit grades are not punitive and therefore really do not meet their requirement as to a veteran taking those courses and making progress toward graduation.

In our system, we have a combination of grade point average and so-called progress points. The student's progress and grades are weighed against this standard and the fact is that if a student takes a course and gets no credit, he has a greater burden to overcome in terms of his progress toward a degree, and therefore it is punitive.

We can't seem to get the VA to understand this. They think only in terms of grade point averages. The fact is that there are a number of different scales and ways people are judged in American higher education. Appendix O initially would require a graduation check every semester. We have a very difficult time, frankly, checking our 5,300 to 5,500 graduates each year, let alone to be checking an additional number of equal size every semester.

We have told the VA that we would be delighted to furnish them with transcripts of their students, which would be difficult enough, and have them check them against whatever standard they want. But, to impose this additional burden, when we can barely assure ourselves that baccalaureate and masters candidates are meeting all of our requirements, given the cost situation in higher education, it is very difficult.

Certainly, they are also questioning the number of units, perhaps, that we give in particular courses. This is on a national basis. In terms of the so-called contact hour, we would argue American higher education and the accrediting agenices to whom we must answer, are in a better position to judge what is the relative merit of a particular course, as it converts from class-contact hours to particular units graduated for those courses.

Those are some of the specifics that have caused us concern. I would agree with the previous witness. More of the burden should be placed on the veteran. If there are abuses, let's prosecute those that are abusing. I must say that we have found at Long Beach that many of the veterans are very honest.

We set up a no-interest loan fund out of the university foundation to help veterans, because the VA simply could not get the checks out on time several years ago. Out of a $5,000 revolving loan fund, we have only had a loss in 3 years of $175.00, and we have no particular sanctions to impose.

So, I think that most of the veterans that I have run into at Long Beach and others on the campuses in our system have not abused the privilege. There are some, I am sure, that have abused it, just as there are some on basic educational opportunity grants, or supplemental opportunity grants that are abusing it, but let's deal with those abusing it not deal with the whole system of higher education and millions of students that aren't abusing it.

Mr. MOTTL. Thank you, very much, President Horn. Jack Tirrell, we will have you speak next week when you come back here.

Mr. TIRRELL. Fine. I would like two paragraphs, and two specifics, Mr. Chairman. I know that you are trying to make the best of a good situation. On the other hand, many of us, I repeat, on the committee, have spent hundreds of hours getting ready for you. We plead with the subcommittee to rectify the actions passed in the hours of the last night of the 94th Congress, without hearings or other deliberations by this committee. Carefully considered action is needed here in this room, room 340, to avoid endless hours in Federal courtrooms across the country. At your hearings last week, you were told that there were seven Federal courtsuits.

There are 26 Federal courtsuits and more going in everyday. We all want to avoid the internal haranguing with the VA representatives in all parts of the country and the harassment, and in some instances the loss of educational benefits by the active duty, the retired veterans and especially the Vietnam veterans.

If this is not done, the cost in time and dollars to the Federal Government—because all of those Federal attorneys and VA people cost somebody money—and the cost of the State and local government units will be very substantial. It would be very unfortunate if one or more of the Federal cases brings the entire veterans educational program to a halt.

The law has led to a number of regulations being promulgated that make all institutions and veterans from Boston University, Long Beach City College, Ohio State University, and from Navarro, Texas, Junior College guilty until they prove themselves innocent of any abuse.

In the November 1976 "Veterans Education Newsletter" published by the VA, it states and I quote, "It is most important to place the situation in perspective, emphasizing the comparatively small percentage of abuses in the total program." That was the VA statement. The other 95 percent of the institutions and the veterans now accused are, to say the least, most insulted.

The entire program has been changed from advanced approval of program entry, supervised by State approval agencies, accrediting agencies—as Chancellor Kibbee said, 200 years of experience—to a payment process for each increment of education completed, and as Dr. Horn has said, this would mean that each semester, getting out all of the transcripts and totalling up what has happened.

The two specifics, sir, are that——

Mr. MOTTL. I thought that it was two paragraphs.

Mr. TIRRELL. That is two paragraphs. This is my last point.

Mr. MOTTL. If you are just reading that, you could just submit that into the record.

Mr. TIRRELL. The 2-year rule and the 85–15 should be returned, we believe, to its previous status. Thank you, sir.

Mr. MOTTL. Thank you. If you will wait around for questions, if we have any time for questions at the end. Thank you very much, Chancellor, Mr. President.

Next, we will hear from Richard Fulton, counsel of the Association of Independent Colleges and Schools. Mr. Fulton?

Mr. FULTON. Mr. Chairman, if I could suggest a realignment of the witness list. I am no longer in an administrative capacity with the association. The executive vice president is Mr. Steven Friedheim, and it is he who would give the statement. I am merely here as counsel to the association and as a possible resource person for either the committee's questions or Mr. Friedheim.

Mr. MOTTL. All right, fine, Mr. Friedheim.

Mr. **Friedheim**. Thank you, Mr. Chairman. I would like to point out that Mr. Fulton has had 15 years of experience as general counsel and executive director of the association, and has a wealth of information and background that might be of interest to the committee.

Obviously, the committee has a big task ahead of them and a very tight time constraint. We appreciate that, and therefore, we will submit our comments for the record——

Mr. **Mottl**. We expect to have a voluminous hearing record and therefore, with your permission, a summary of the issues presented to the court in this case will be inserted in the record. If there are no objections, they will be submitted. There being no objection, they are submitted.

[The statement follows:]

PREPARED STATEMENT OF STEPHEN B. FRIEDHEIM, CAE, EXECUTIVE VICE-PRESIDENT, ASSOCIATION OF INDEPENDENT COLLEGES AND SCHOOLS

Mr. Chairman, and Members of the Subcommittee: My name is Stephen B. Friedheim. I am the Executive Vice-President of the Association of Independent Colleges and Schools. I am accompanied by our General Counsel, Mr. Richard A. Fulton, who for some fifteen years served as the Executive Director and General Counsel of AICS. While Mr. Fulton is not here as a witness but as the Association's lawyer, I would appreciate the indulgence of the Committee to permit me to consult with him as a resource person if necessary in the course of my presentation.

AICS is an organization of some 500 postsecondary educational institutions. Many well-intentioned, but misinformed, persons assume that it is an Association of "business colleges." Others incorrectly assume that it represents "proprietary" or as others would have it "tax-paying" institutions.

More than 25% of the institutions in AICS are degree-granting institutions. Therefore, we have a very clear and immediate interest in and concern with the many amendments to the G. I. Bill which were enacted by Congress last year that particularly affect or involve institutions of higher learning offering programs of education leading to a standard college degree. At the risk of being redundant, I wish to clearly state that while many of our institutions do offer programs having a vocational objective which are conducted on a clock-hour basis, a substantial number of our institutions are concerned with Federal legislation and Veterans Administration regulations and circulars dealing with institutional undergraduate courses offered by a college or university on a quarter- or semester-hour basis.

With the Chairman's permission I would like to offer for the record the complete text of my written statement which has already been filed. I should prefer to attempt to briefly summarize the main points of that statement and then, if the committee desires, to attempt to respond to questions.

COOPERATION WITH THE VETERANS ADMINISTRATION

Over the years, AICS and the Accrediting Commission, which it sponsors, have attempted to cooperate with the Veterans Administration in support of quality education for all students, including Veterans, survivors, and war orphans. From time to time we have been pleased to share in constructive decisions by the VA leading to recognition of the integrity and credibility of the institutional accreditation extended by the Accrediting Commission of AICS. We are pleased, for example, that the collegiate institutions accredited as such by AICS enjoy the position of an "institution of higher learning" under the pertinent statutes of Title 38, and that the accreditation of AICS is included within the definition of a "Standard College Degree." As I previously said, quite often there are those who associate courses having a vocational objective in the statutory sense as the peculiar province of AICS schools. Such is not the case. Increasingly, more AICS schools are offering programs with an educational objective leading to a standard college degree; however, that is not our sole concern in appearing here today.

We think it is fair to say that student enrollments in AICS schools are a significant element, though not a large component of, the postsecondary education community. Total enrollments, full-time and part-time, in AICS institutions for the 1975-1976 academic year totaled 362,000. Of these, 27.4% were Veterans. 71,000 Veterans were full-time students and 20,000 were part-time students. Thus, however small these enrollment figures of Veterans and Nonveterans are in the total statistical data available on enrollments in the various types of institutions in the higher education community, we still wish to express a very real concern for unresolved problems which are currently affecting all the institutions involved in the postsecondary education effort of this country. It is interesting to note that figures indicate that the VA is supporting 1.3 million Veterans. Our schools only represent 7% of the total Veteran enrollment.

VETERANS' RIGHTS

Although Congress assuredly has the right and the responsibility to repeal, withdraw, amend, or hopefully extend, the benefits due ex-servicemen, and to that extent, they might be termed a gratuity, as long as the Veterans Readjustment Act is on the statute books and available to Veterans, we suggest that these benefits are a property right and we can understand the concern of Veterans who feel that the administrative posture of the Veterans Administration fails to accord them sufficient dignity as having a present entitlement instead of categorizing them in some cases as a mere supplicant. After all, the recruiting efforts of the Armed Services of this nation were, and still are, utilizing educational benefits as an inducement to enlist and as a benefit as a result of service. Only after discharge is the Veteran confronted with an administrative posture by the VA that his benefits are a "mere gratuity." One is unable to find such an announcement at the recruiting station.

VA REGS AND CIRCULARS UNAUTHORIZED BY STATUTE

One of the most vexing problems to institutions of higher learning and inhibiting to Veterans embarked upon programs of education leading to a standard college degree, is the continued existence and increased publication of regulations and circulars by the VA which in the opinion of many are unauthorized under the existing statutes of Title 38. One such example is the attempt by the VA, through regulation and circular, to require a minimum of 600 contact minutes each week of each quarter or semester through VA regulation 14–272(D) and to define a "standard class session" in the VA regullation 14–200(G) as being necessary to support the award by the educational institution for the awarding of one quarter or semester hour credit. Neither of these requirements by the VA is grounded in professional expertise or practice or is authorized by Section 1788 of Title 38 which deals with the measurement of courses.

In Section 1788(a)(4) there is described what constitutes "an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis" and why it should be considered full-time when at least 12 such semester-hours, or the equivalent thereof, are offered. The key to this controversy lies in the statutory concept of the word "basic." Both in layman's language and in professional expertise, "basis" means that the basic component is in fact the quarter or the semester. It is not the week and it is not the month.

Nonetheless, according to VA regulation 14–272(D) the VA has arrogated unto itself the regulatory authority to tell an institution of higher learning offering programs on a quarter- or a semester-hour basis that each and every week of such quarter or semester there must be a minimum amount of contact-minutes with the student to qualify as a full-time program. If the committee will review the provisions of Section 1788(a), I am sure that they will agree with us that, while other portions of the Subsection, particularly with regard to programs having a vocational objective not leading to a college degree, specify particular amounts of clock-hour contact, there is no such provision or requirement in Section 1788(a) (4).

Similarly, within the educational community the definition of a "standard class session" varies widely, and even the VA itself in its definition under VA Regulation 14–200(G) admits or qualifies its definition that "normally" a standard class session is not less than one hour of academic instruction. However, the VA fails to allow or to state what the alternatives are despite the qualification in the definition. Further, there is nothing in academic standards which necessarily requires that there be one clock-hour or at least 50 contact minutes for each week of the quarter or the semester to support one quarter- or semester-hour. These two VA regulations are stark examples of the continued intrusion into the internal academic affairs of educational institutions despite the clear prohibition of Section 1782 of Title 38 which forbids such supervision or control.

85–15 EXCLUSION

One of the two most unfortunate amendments by the Congress to the G.I. Bill last session was the expansion of the formula of the so-called 85–15 rule and its extension to include all programs including those leading to a standard college degree. We suggest that it is most important to remember that while the mystical numbers "85–15" were retained, the amendment was more than a mere extension of the limitation. It also involves serious alterations in the factors in the computation of that formula. Although the change was justified on the grounds of reducing abuses and expanding the so-called "free market mechanism" it will in our opinion repose even more regulatory authority in the hands of the VA without any reasonable standards or criteria. For this reason, there may be a basis for the Federal Courts to declare it unconstitutional.

We urge Congress, at the very least, to "put things back like they were." Certainly, the formula for the 85–15 should be amended to limit it strictly to a Veteran-Nonveteran computation base. Furthermore, in returning it to the previous situation, we would suggest that rather than apply it by individual "program" to institutions not offering a college degree, we would apply it on an institutional rather than on a programmatic approach may have been justified thirty years ago, but if the original thrust of the 85–15 formula was towards vocational schools which were primarily small trade schools, the situation has changed dramatically. Even privately operated vocational and trade schools are now multi-curriculum institutions. Further, trade and vocational education has sophisticated to the point that the simplistic view of one's having a "vocational objective" such as drafting or welding no longer is applicable.

The original justification for the so-called 85–15 rule was grounded on a Veterans vs. Nonveterans computation in an era when students other than Veterans were cash students. Such is no longer the case. Other Federal student assistance programs now exceed $2 billion a year. There is no such "free market" any longer. All of the educational community is wedded to a vast and complex system of Federal student assistance.

Presently the VA has an unfettered regulatory authority to allocate that portion of the 85–15 formula dealing with "other Federal programs" such as the Basic Education Opportunity Grants or Supplemental Opportunity Grants Program to either the 85% or the 15% element .The other Federal programs, as we say, now total more than $2 billion a year. The enrollment practices of an institution are dramatically affected by participation in these other Federal programs. The day of reckoning is coming July 1, when the Veterans Administration is going to have to deal realistically with the temporary waiver by which they avoided in large part the immediate ramifications of this, in our opinion, "unconstitutional" delegation of waiver authority by the Congress to an administrative agency. There are absolutely no standards whatsoever under which the VA is to exercise this authority. We feel that ultimately, unless Congress acts quickly to at least return the situation to what it was, that the Courts will step in and rule definitively on this measure.

TWO-YEAR PROHIBITION

While we have the greatest respect for the role played by the public, tax-supported institutions, we must assert for the record our concern for what appears to us to be the invidiously discriminatory provisions of the 1976 amendments to Section 1789 under the period of operation for approval, which permits any tax-supported institution to operate to the extent of its taxing jurisdiction to offer new programs of less than two years' experience. On the other hand, any nontax-supported institution, be it tax-exempt or tax-paying, is limited to offering new programs within commuting distance only. We suggest that this unfairly disadvantages nonpublic institutions in offering innovative programs to Veterans who often come from minorities and disadvantaged groups who truly need innovative educational programs. We must state for the record that we are not aware that the publicly financed institutions sought this statutory advantage. In fact, they share with us the request that Congress withdraw this unfortunate 1976 amendment to Section 1789.

REDUCE CLOCK-HOURS

We strongly and vigorously suggest that the Committee review the technique of measurement of courses on a clock-hour basis for programs not leading to a college degree. We applaud the authority tendered to the institutions in the final paragraph of Subsection (a) of Section 1788 which permits such institutions offering such courses to have the courses measured on a quarter- or semester-hour basis. However, we feel that the opportunity is there more in form than in substance because of the continued requirement under Section 1788(a)(2) that there must be a net of 22 hours a week of instruction .We suggest that this statutory requirement which would have been reduced to 18 as recommended by the Committee report of the Senate to accompany S. 969 (report number 94–1243) would have gone a long way to solve the problem. Vocational education has sophisticated to a large degree both in its technique and the type of students embarking upon it. We hope the Committee will consider reducing the number of net hours of instruction for noncollege degree courses to at least 18, rather than upholding the 22 rate presently required.

THREE-LETTER RULE

There are other unfortunate regulatory practices which may not properly be part of this hearing. One, for example, is the new requirement for institutions seeking to have courses measured on a credit-hour basis to evidence in fact transfer of at least nine students to fully accredited colleges. This is a startling contrast for the practice of the past three decades that evidence of intent from accredited colleges to accept such students was sufficient.

MULTIPLICITY OF LAWSUITS

There is always the possibility that it is with a lack of information rather than candor that representatives of the Veterans Administration in the March 29, 1977, testimony characterized the burgeoning number of lawsuits against the Veterans Administration by stating, "It is interesting to note that most of these suits have been filed by business schools with predominant Veteran enrollment." We suggest that at best this is an incomplete analysis of the situation. We suggest also that to deny the fact that each of the suits is in fact a constitutional test is to ignore the reality of Section 211(a) of Title 38, which forbids an ordinary judicial review of any decision of the Veterans Administration with regard to benefits. In fact, the only way that the VA can be tested in court is to raise a constitutional issue.

However, it may be to the advantage of the Committee, and indeed the Congress itself, to have a more objective evaluation, both quantitatively and qualitatively, of the amount of litigation in which the Veterans Administration is engaged. We understand that the VA has said that there are merely seven suits. We have personal knowledge of many more and are informed that many more are about to be filed. The General Accounting Office could perform a very valuable and possibly, perhaps, objective function in summarizing the number, the names, the locations, and the natures of the controversies in these some two dozen suits filed against the Veterans Administration by institutions, public and private, and individual Veterans. We urge the Committee to seriously consider a GAO study of the litigation involving the Veterans Administration.

We understand that there are proposals which would repeal the inhibiting language of Section 211 of Title 38, which denies any court of the United States the power or jurisdiction to review any decision of the Veterans Administration. We suggest that this section represents an obsolete concept and denies both institutions and Veterans an expeditious determination of disputes with the Veterans Administration. It has forced every controversy into a constitutional challenge in order to achieve standing in a Federal District Court.

It is singular that the individual Veteran has no mechanism to seek an individual determination of his or her right with regard to educational benefits. I refer in particular to the unrestricted and unfettered authority reposed in the Administrator of the VA to waive the 85–15 requirement of Section 1673 "in whole or in part, if the Administrator determines it to be in the interest of the eligible Veteran and the Federal government." We respectfully point out to the Committee that nowhere in the statutes and nowhere in the regulations does the individual Veteran have a procedure or a forum by which he may be heard to express the request that the waiver of the statute would be in his interest and to seek a speedy determination of such a request for the waiver.

SUMMARY

We understand that the officials of the Veterans Administration have been under a tremendous burden to deal with the problem of excessive overpayments by reason of the administrative details of the prepayments and advance payment system. We understand, according to their testimony, that much of this problem has now been solved. On the other hand, we remain concerned that what is loosely identified by allegation or innuendo as an "abuse" may be an attempt, however well intentioned, to begin to deny the Veteran his right to his benefits because some other element of American society may disagree with the motivation of the Veteran. The report of the Senate to accompany S. 969 last year is replete with references announcing the determination to limit G.I. benefits to "serious students." Nowhere, however, is there any standard established by the Committee reports, the legislation, or the regulation, as to what constitutes "serious motivation." Indeed, there should not be.

We do suggest that there is ample basis to measure the serious intent of a Veteran. There are objective indicia available to find out whether or not the Veteran is progressing satisfactorily by institutionally determined standards, such as whether or not he is receiving satisfactory grades as determined by long-time institutional practices. But if the day comes when the Administrator of the VA can determine that Veterans study sociology are not "serious," whereas Veterans studying engineering are, as a basis as to whether or not to waive the 85–15 rule or some portion of it, more than the Veteran or American education is in trouble. Indeed, the reality rather than the spector of thought control is in our midst.

We appreciate the opportunity of sharing with the Committee our views on some aspects of the Veterans Readjustment Act and the opportunity to urge certain amendments. In order to share with the Committee the official position of AICS I am including in the closing portion of my remarks a resolution adopted by the Board of Directors of AICS:

"Moved that the AICS Board of Directors applauds the efforts of Congress and the VA in their attempt to curb the abuses which have occurred in all segments of higher education relative to the training of veterans. However, it is the opinion of the Board of Directors that the enactment of the Public Law 94–502 does not effectively respond to the elimination of these abuses.

Therefore, the Board of Directors of AICS instructs the Executive Vice-President to continue his efforts in consideration of the 85–15 provision until corrective legislation can be enacted and strongly supports total elimination of the 85–15 provision and the two-year rule.

Further, the AICS Board of Directors supports a policy calling for changing the three-letter rule back to its previous form."

In closing I would urge once more that the Committee seriously address itself to the need to at least return the 85–15 situation to where it was before the unfortunate amendments of 1976 and to review the invidiously discriminatory nature of the two-year rule and the modification to the three-letter rule.

Respectfully submitted.

STEPHEN B. FRIEDHEIM, CAE.

This lawsuit presents a challenge to three specific provisions of the Veterans Education and Employment Act of 1976. These are:

(A) Section 205(d) of Public Law 94–502 which amends 38 U.S.C. § 1673(d);

(B) Section 509(b) of Public Law 94–502 which amends 38 U.S.C. § 1789; and

(C) Section 307 of Public Law 94–502 as it amends 38 U.S.C. § 1724.

1. Title 38 U.S.C. § 1673(d) embodies what is commonly known as the 85–15 rule. The Administrator is directed to disapprove a veteran's enrollment in any course for which he is not already enrolled if more than 85 percent of the students enrolled in that course are subsidized in whole or in part by the federal government or the educational institution itself. Disapproval would mean, of course for which he is not already enrolled if more than 85 percent of the stusome approved courses. Thus the 85–15 rule is an attempt to force upon courses a market test; i.e. the theory behind the legislation is that if a course can attract a certain percent of paying students, then it is probably less likely to be a gimmick to attract veterans' dollars and more likely to be a quality course.

2. Title 38 U.S.C. § 1789 embodies what is commonly referred to as the two-year rule. The two-year rule means basically that the Administrator is required to disapprove a veteran's enrollment in courses (hence his benefits) if the course has not yet been offered for two years. Some exceptions are allowed. The theory is the same as that underlying the 85–15 rule; namely, to force a course to survive a market test before G.I. Bill dollars start supporting it.

3. Title 38 U.S.C. § 1724 is aimed at an objective different from that underlying the 85–15 and two-year rules. While the latter two rules attempt to insure quality courses, § 1724 attempts to insure that the enrolled veteran actually does something constructive while he is in school. Section 1724 attempts to insure that each veteran, insead of merely enjoying the academic environment, makes definite progress toward an educational goal.

Each of these three enumerated sections of the Veterans' Education and Employment Act of 1976 is challenged on the theory that each conflicts with one more of the amendments to the United States Constitution.

Mr. Friedheim. I would like to point out that we have attached a transcript of the first day's hearing of the suit between four veterans and the National College of Business against the VA because we feel that this testimony points out the value, as you have noted, of veteran educational programs, and it also points out the impression that young people have when they either volunteer for the military or when they are inducted into the military, as in the case of the Vietnam veteran, and the impressions that they have about their rights and privileges relative to education.

We would like to second the kinds of comments that you have heard this morning, because we think that the educational institutions recognize the concerns that you have felt and are willing to work with you and the Veterans' Administration to find solutions, but the ones that are currently being imposed are simply unsatisfactory as far as our capability of responding.

To follow up on the comment that Mr. Tirrell made about the number of lawsuits that have been created, we would like to recommend for your consideration the possibility of asking the GAO to look into these lawsuits because they are so numerous and because they are multiplying, and because we think that there are some threads of consistency in them which may be of value to this committee.

With that brief statement, we will be available to any questions that you would like to ask. I would like to commend, particularly, Mrs. Heckler for your excellent questions earlier——

Mrs. Heckler. Thank you.

Mr. **Friedheim.** [Continuing.] Which we think deserve a much longer response than maybe is possible in this short time that we have here.

Mr. **Mottl.** We certainly appreciate your very concise statement, Mr. Friedheim, and your cooperation with the subcommittee, and if you will remain for a few minutes, we will get on to the next witness, and then we will have you come back as a panel.

Mr. **Friedheim.** Thank you.

Mr. **Mottl.** Thank you, very much.

Mr. Wylie submitted for the record the following comment in response to Mr. Friedheim's statement regarding the authority of the Veterans' Administration to issue regulations.

[The material referred to follows:]

Mr. **Wylie.** On page 4 of his prepared testimony, Mr. Stephen Friedheim of AICS questioned the right and authority of the VA with regard to certain regulations and requirements. One, specifically, was the matter of—a minimum of 600 contact minutes.

I have received copies of what the Veterans' Administration states are the pertinent regulations, plus a circular, and a memorandum from the Veterans' Admiinstration General Counsel, dated March 21, 1977, on this question. I would like to include this material for the record.

Memorandum

To: Acting chief benefits director (224C).
From: General Counsel (021).
Subject: Proper application of VAR 14272(D).

1. You have requested the opinion of this office on the following questions:

a. Whether a course leading to a standard college degree, offered by a school at which 12 quarter hours is considered full time, may be measured as full-time training for educational assistance allowance purposes when the school grants 12 quarter hours of credit for a quarter consisting of less than 12 standard class sessions; and

b. Whether, if the answer to the above question is in the negative, the Veterans Administration has the discretionary authority, nevertheless, to consider such course as being full time for a quarter or more, until the school can adjust the course so as to bring it into compliance with full time measurement requirements.

2. The statutory provisions relating to measurement of courses, pertinent here, are contained in section 1788(a)(4) of title 38, United States Code, which reads as follows:

"(4) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis shall be considered a full-time course when a minimum of fourteen semester hours or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct an educational deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), for which credit is granted toward a standard college degree, is required, except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course;"

3. The statutory provisions granting the Administrator the authority to issue rules and regulations are contained in section 210(c)(1) of title 38 which reads as follows: "(c)(1) The Administrator has authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by the Veterans' Administration and are consistent therewith, including regulations with respect to the nature and extent of proofs and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws, the forms of application by claimants under such laws, the methods of making investigations and medical examinations, and the manner and form of adjudications and awards."

4. Pursuant to the authority granted the Administrator under section 210 (c)(1), various regulations pertinent to your request have been promulgated dealing with the measurement. These are set forth individually below.

5. VA Regulation 14272(D) reads as follows: "(D) Courses—Measurement Equivalency. Where a term is not a standard semester or quarter as defined in VA Regulation 14200(B), the equivalent for full-time training will be measured by multiplying the credits to be earned in the session by 18 if credit is granted in semester hours, or by 12 if credit is granted in quarters, and dividing the product by the number of whole weeks in the session. The resulting quotient will be the semester hours on which educational assistance allowance will be computed using the criteria of VA Regulation 14270 proper or the criteria of footnote 3 to that paragraph, whichever is appropriate. In determining whole weeks for this formula, 3 days or less will be disregarded and 4 days or more will be considered a full week. In no case will a course be measured as full-time when less than 14 standard class sessions per week (or 12 standard class session if 12 credit hour is full time at the chool) are required."

6. VA Regulation 14200(B)(3) reads as follows: "(3) 'Quarter,' a division of the ordinary school year, usually a period from 10 to 13 weeks long."

7. VA Regulation 14200(G) reads as follows: "(G) Standard Class Session. The term means the amount of time a student is required, in a regular quarter or semester, to spend in class per week for one quarter or one semester hour of credit. Normally a standard class session is not less than 1 hour (or 50 minute period) of academic instruction, 2 hours of laboratory training, or 3 hours of workshop training."

8. The facts presented to us show that Wayne State University, Detroit, Michigan, is an accredited institution of higher learning, operating on a standard quarter system. The University offers a bachelor's degree program, Weekend College Program of the College of Lifelong Learning, approved for educational assistance allowance under chapters 34, 35, and 36 of title 38, for which 12 quarter hours is considered full-time training. The course schedule for this program requires pursuit of a course of regular classroom instruction, meeting 4 hours per week for 12 weeks; a course pursued by open circuit telecast throughout the same 12-week quarter; and a "nontraditional" course offered on 2 consecutive weekends (Saturday and Sunday) within the quarter, consisting of 10 hours of classroom instruction each day of each weekend. The University grants a total of 12 hours of degree credit for completion of these courses (4 credit hours for each course) and, therefore, considers such course pursuit as full time for the entire quarter. No consequence is drawn by the school from the fact that the intensive weekend course is of such short duration. Instead, it justifies its measurement of course load for the quarter, ostensibly on the basis that the contact hours of the intensive weekend course, in particular, may be averaged over the length of the entire 12-week quarter. It is this practice of measurement which has come into question, and is at issue here.

9. Of the three courses mentioned above, the "traditional" course of classroom instruction and the open circuit telecast course, each providing instruction over a 12-week period, may be considered as offered on a standard quarter basis within the definition of VA Regulation 14200(B)(3), cited above. The intensive weekend course, however, provides instruction during part of each week for only 2 consecutive weeks and, therefore, cannot be considerd as offered on a quarter basis.

10. Underlying each of the above-cited regulations is the concept that course measurement is, at least in part, related to the actual period of course pursuit, the basic unit of which is the week. On this basis, the intensive weekend

course offered by Wayne State University could be considered, at most a 2-week term. Measurement for the course, therefore, would be accelerated in accordance with VA Regulation 14272(D). Such measurement, which converts the credit hour load for the term to a comparable rate of course pursuit for a standard quarter, must be distinguished, however, from the measurement practice conceived by the university. The regulation permits accelerated measurement of course load, without altering the actual term of course pursuit for which educational benefits are payable. The university policy, however, extends the enrollment period beyond that of required course pursuits, in a manner which establishes a fictitious basis of training time for the entire quarter. The latter results in full-time course measurement for the quarter, contrary to the concluding proscription of VA Regulation 14272(D) that in no case will a course be measured as full time when less than 12 standard class session, if 12 credit hours is full time at the school, are required.

11. Accordingly, it is the opinion of this office that VA Regulation 14272(D) specifically precludes measuring a course as full time, on a 12-credit hour full-time system, when such course is offered on a standard quarter basis and less than 12 standard class sessions are required. Further, enrollment in the intensive weekend course offered by Wayne State University for 2 consecutive weekends does not constitute enrollment for a quarter, as defined by VA Regulation 14200(B)(3) and, therefore, must be measured in accordance with the training time equivalency formula set out in VA Regulation 14272(D). Thus, your first question is answered in the negative.

12. With respect to your second question, we can find no authority which would permit the Administrator to waive or defer the enforcement of VA Regulation 14272(D) until such time as the university can bring its course into compliance with statutory and regulatory criteria for full-time measurement.

GUY H. MCMICHAEL III.

VA REGULATIONS—VR&E—TRANS. SHEET 447

(D) *External Degree.* This term means a standard college degree given by an accredited college or university based on satisfactory completion of a prescribed program of independent study. The program may require occasional attendance for a workshop or seminar and may include some regular residence course work. (Nov. 19, 1973)

(E) *Standard College Degree.* The term means an associate or higher degree awarded by:

(1) An institution of higher learning that is accredited as a collegiate institution by a recognized accrediting agency (there are seven agencies that grant such accreditation: six regional accrediting associations and the Board of Regents, New York State); or

(2) An institution of higher learning that is a "candidate" for accreditation, as that term is used by the six regional accrediting associations; or

(3) An institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs. (Dec. 3, 1974)

(F) *Undergraduate College Degree.* The term means a college or university degree obtained through the pursuit of unit subjects which are below the graduate level. Included are associate degrees, bachelors' degrees and first professional degrees. (Dec. 3, 1974)

[(G) *Standard Class Session.* The term means the amount of time a student is required, in a regular quarter or semester, to spend in class per week for one quarter or one semester hour of credit. Normally a standard class session is not less than 1 hour (or 50 minute period) of academic instruction, 2 hours of laboratory training, or 3 hours of workshop training.] (June 21, 1976)

14201 (§21.4201). Schools listed by attorney general.—Enrollment may not be approved for a course in a school while it is listed by the Attorney General under section 12, Executive Order 10450. (38 U.S.C. 1793) (Oct. 24, 1972)

14202 (§21.4202). Overcharges—restrictions on enrollments

(A) *Overcharges.* When it is found that a school has charged or received from any veteran or eligible person any amount in excess of the established charges for tuition and fees which the school requires from similarly circumstanced nonveterans or noneligible persons enrolled in the same course, the school may be disapproved for enrollment of any person not already enrolled in the school. A school disapproved for chapter 35 purposes before March 3, 1966 is considered disapproved for chapter 34 purposes for enrollment of any veteran not already enrolled. (38 U.S.C. 1790) See VA Regulation 14207. (Oct. 24, 1972)

(B) *Restrictions on Enrollments.* A school will be disapproved for further enrollments or reenrollments, and educational assistance allowance to veterans or eligible persons already enrolled will be discontinued when one or more of the following conditions has been found to exist:

VA Regulations—VR&E—Trans. Sheet 457

(3) [ ] The school [will] furnish [a letter from a State university or] letters from three schools that are [full] members of a nationally recognized accrediting association certifying that credits [have been accepted] on transfer at full value [without reservations], in partial fulfillment of the requirements for a baccalaureate or higher degree [for at least three students within the last 5 years, and at least 40 percent of the subjects within each curriculum, desired to be measured on a credit-hour basis, shall have been so accepted by the certifying State university or each of the three accredited schools.] (Oct. 26, 1976)

(C) *Nondegree Courses.*

[(1) *Accredited School.* The nondegree course is offered by a degree granting college or university which is accredited as a degree granting school by a nationally recognized accrediting association, and

(a)] The course is offered on a semester-[or] quarter-hour basis, and

[(b)] The course requires not less than high school graduation or equivalent for admission, and

[(c)] The school certifies that credit for [ ] the subjects within the curriculum, desired to be measured on a credit-hour basis, is *granted upon transfer* to the element of the school which offers an associate or higher degree, and credit is awarded at full value, i.e., credit hour for credit hour toward partial fulfillment of the requirements for an associate or higher degree, or

[(2) *Nonaccredited School.* The nondegree course is offered by a degree granting college or university which is not accredited as a degree granting institution, and the school meets the conditions of subdivision (1)(a),(b) and (c) above] and furnishes proper certification for [its degree courses to which the credits transfer as provided in subparagraph (B)(3)]. (Oct. 26, 1976)

(D) *Courses—Measurement Equivalency.* Where a term is not a standard semester or quarter as defined in VA Regulation 14200(B), the equivalent for full-time training will be measured by multiplying the credits to be earned in the session by 18 if credit is granted in semester hours, or by 12 if credit is granted in quarters, and dividing the product by the number of whole weeks in the session. The resulting quotient will be the semester hours on which educational assistance allowance will be computed using the criteria of VA Regulation 14270 proper or the criteria of footnote 3 to that paragraph, whichever is appropriate. In determining whole weeks for this formula, 3 days or less will be disregarded and 4 days or more will be considered a full week. [In no case will a course be measured as full-time when less than 14 standard class sessions per week (or 12 standard class session if 12 credit hours is full time at the school) are required.] (Oct. 26, 1976)

(E) *Credit Courses—Special.* Where the course is acceptable for credit but credit may not be awarded to the veteran or eligible person because he [or she] has not met college entrance requirements or for some other valid reason, the course will be measured the same as if it were pursued for credit provided the veteran or eligible persons performs all of the work prescribed for other students who are enrolled for credit. (Oct. 1, 1967)

(F) *Noncredit Deficiency Courses.*

DVB Circular 20-77-16, Feb. 9, 1977 (Confirming Teletype Transmission)

MEASUREMENT FOR PAYMENT PURPOSES, VA REGULATION 14272(D)

1. Effective October 26, 1976, VA Regulation 14272(D) was amended to include: In no case will a course be measured as full time when less than 14 standard class sessions per week (or 12 standard class sessions if 12 credit hours is full time at the school) are required. (See VA Regulation 14200(G)

which defines "standard class session". Likewise, a proportionate number of weekly standard class sessions is required to support an assignment of part-time training.

a. In addition to meeting the credit-hour measurements of VA Regulation 14270(C), a course must also schedule a sufficient number of contact hours to support the assigned training time. Weekly contact hours, excluding any break periods, should be used to determine training time measurement if individual class periods are longer than a standard class session. Equivalent standard class sessions for measurement can be obtained by dividing the number of weekly contact hours by the length of a standard class session.

b. If a school conducts a term shorter than a normal quarter or semester, weekly contact hours of instruction must be increased correspondingly for measurement as an accelerated course under the provisions of VAR 14272(D).

2. The above principle applies to all collegiate undergraduate courses measured on a credit-hour basis regardless of whether they are offered pursuant to a standard semester or standard quarter system. Accordingly, measurement of all applicable courses for academic terms beginning on or after October 26, 1976, are subject to this regulatory provision. Where applicable, overpayments should be created from the beginning of such terms and school liability considered. (Notwithstanding the effective date of this regulatory amendment, this change merely reflects a certification of longstanding Veterans Administration measurement policy rather than new policy.)

3. Although IHL's should still certify credit hours for enrollments, the VA must be able to determine the number of standard class sessions which are scheduled if this may result in reduced training time. Accordingly, all IHL's should be put on notice that when the equivalent of a standard class session per week for each credit hour granted is not scheduled, the enrollment certification should also report the number of such weekly sessions or the equivalent contact time. This may even require the need to differentiate between academic and laboratory instruction if clock hours are merely reported instead of standard class session (e.g., a chemistry course may be given for 3 credits, involve 4 hours of attendance, but yet should only be reported as entailing 3 standard class session if there is a 2-hour weekly lab).

4. Since our administrative experience suggests that the measurement of some courses offered by colleges and universities across the nation may be directly affected by this regulatory amendment, special attention should be given to this matter. The amount of contact time scheduled for credit hours granted should be checked during compliance surveys. A spot check of several unit courses against the catalog or most current class schedule will generally suffice unless discrepancies are found or there is some other basis for suspecting a problem in this area.

5. This instruction will necessitate a change to PG 21-1, section M-45, which will be forthcoming.

RUFUS H. WILSON,
Chief Benefits Director.

Mr. MOTTL. The next witness will be Mr. Marvin Busbee, National Director of the National Association of State Approving Agencies of Columbia, S.C.

Mr. BUSBEE. Mr. Chairman, my paying job is the chief supervisor of the State approving section of the State Department of Education in the State of South Carolina. Legislative Director is a nonpaying position. I would, on page 9, briefly summarize our thinking relative to several points in 94-502, and one is to eliminate the BEOG and SEOG in determining 85-15 percent ratio. Two is to make the necessary changes so that Appendix "M", DVB Circular 20-76-84, and VA Regulation 14253 complement each other. Thirdly, I submit that our association has the capability to furnish meaningful input to the Veterans Administration in the preparation of documents implementing laws.

Fourth, to reinstate the monthly certification of training. And, five, to again reiterate, the Veterans Administration and State approving agencies are a part of a team with the same mission, goals and objectives—the better we cooperate, the better we will carry out our individual responsibilities assigned by Congress. By and large, the relationship between State approving agencies and the Veterans' Administration (Regional and Central) is excellent.

Briefly, we feel very strongly on this—that the State approving agencies 17 years ago brought to the attention of the Veterans Administration, the House Committee on Veterans' Affairs, and the Senate Committee on Veterans' Affairs that there were ripoffs. We requested by resolution that necessary action be taken to eliminate these ripoffs.

We would like to commend the Congress and the Veterans Administration for providing opportunities, not only for the veteran, but also in guarding and safeguarding the taxpayer's money. We know that the Veterans Administration has certainly become unpopular with certain segments of the educational community when they are carrying out their responsibilities.

Now, we feel, in the State approving agencies, anything that affects the education and training program, affects the State approving agencies, even though our duties and responsibilities might not be along those same lines. What we are saying here is that all of us are on the same ball team and we should be working collectively, together to carry out the responsibilities assigned us by Congress.

As far as the 85-15, as previously stated, some 90 percent students —and that is the way we find it—are receiving some sort of grant from the Federal Treasury. What we have here, what I am trying to say is, we are depriving veterans of entering certain courses which would be meaningful to their education, in view of the fact that you have got 90 percent drawing some sort of grants.

The parties to appendix M complementing the standards of progress—we have come to the fact that M is for payment purposes, and that the standard progress is for progress purposes. However, they have been distributed to schools and they bring to the attention of schools that they are operating under two rules, in view of the fact that they have not quite understood all the intricacies of the M.

And, again, I say, that they should complement each other. We feel that O is a very good regulation, but it certainly would meet with greater success if we had less detail. The monthly certifications for training, we feel, would have a psychological effect on the recipients and make them aware that they should make a contribution to their progress.

Where else can you get a check without some proof that you are fulfilling your part of the contract? Generally speaking, again, we are concerned in the State approving agencies with our inability to interact with the Veterans Administration before regulations, circulars, appendices, are published and disseminated.

We feel that within our association, we have the mechanism which would obtain meaningful information in a short time for that organization.

Mr. Chairman, that is a brief summary. I would be pleased to respond to any questions.

Mr. MOTTL. Thank you, very much, Mr. Busbee, for your cooperation and concise resume of your statement, and without objection, your statement will be submitted for the record. The chair hearing no objection, it will be submitted.

[The statement follows:]

PREPARED STATEMENT OF MARVIN P. BUSBEE, LEGISLATIVE DIRECTOR, NATIONAL ASSOCIATION OF STATE APPROVING AGENCIES

Mr. Chairman and members of the committee: On behalf of the National Association of State Approving Agencies, I appreciate this opportunity to testify before your committee regarding certain provisions of Public 94–502. I am an employee of the State of South Carolina, Department of Education. My position is Chief Supervisor of the State Approving Section and I have been affiliated with this Section for 30 years.

The Congress, in its infinite wisdom, has demonstrated through the enactment of this law and prior laws, that it is cognizant of its responsibilities to provide opportunities to servicemen and women and their dependents for vocational readjustment and restoring lost educational opportunities, and its responsibilities in safeguarding the tax payers' money.

The Veterans' Administration has demonstrated that it is aware of the responsibilities assigned it by Congress, and also of its responsibilities to the American taxpayer. In making an all out effort to see that veterans and other eligible persons are afforded the very best educational opportunities, it appears the V. A. has not made itself popular with certain segments of the educational community, however, when you hear, see or read of the millions of dollars of overpayments which have been made, you become aware of the needs of those safeguards included in 94–502 and in the implementation by the Veterans Administration.

Although the State Approving Agencies do not have basic responsibility for enforcing the 85–15 percent ratio requirement, we do have the responsibility to establish an exchange of information pertaining to activities of educational institutions, with particular attention being given to the enforcement of approval standards, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions in which eligible persons or veterans are enrolled. As stated to you last year, anything that affects the education and training program affects State Approving Agencies, and even though definite duties, functions, and responsibilities are conferred upon the Veterans Administration, and State Approval Agencies, all of us are on the same ball team, and should be working collectively in carrying out the responsibilities assigned by the Congress.

85–15 PERFECT RATIO REQUIREMENT

Prior to Senate Bill 969 becoming PL 94–502, I was given the opportunity to comment on this legislation. In a letter dated July 27, 1976 to the Honorable Vance Hartke, Chairman, Committee on Veterans Affairs, U. S. Senate, I stated the 85–15 ratio provision could possibly preclude the enrollment of veterans and other eligible persons in many of the state supported community college type schools and the majority of business schools and other vocational schools. Following Amendment No. 2005 to S 969, in letter dated August 13, 1976, to the Honorable Vance Hartke, I stated that our Association concurs with the provision of Section 1673, in which the 85–15 requirement is extended to all courses offered by educational institutions, and bans enrollment of eligible veterans, not already enrolled, in any course (excluding on-farm and PREP) in which more than 85% of the students enrolled in the course are having all of their tuition, fees or other charges paid to or for them by the educational institution or by grants from any Federal agency. I further stated that this concurrence is based on the addition in which discretion is allowed the Administrator to waive the 85–15 requirement in case of HEW Grant Programs such as Basic Educational Opportunity Grants and the Supplemental Educational Opportunity Grants.

The Veterans Administration also concurred in a report to the Committee on Veterans Affairs, U.S. Senate, 7/23/76. The impression that was given me was that the Administrator would waive the 85–15 requirements in these grant programs.

The Veterans Administration Regional Office (Columbia, S. C.) states that the majority (all but one course) have met the current waiver requirements with the total effect being a tremendous paper exercise. This temporary waiver excluding BEOG (Basic Educational Opportunity Grants) and SEOG (Supplementary Educational Opportunity Grants) expires June 30, 1977.

It also appears that at those institutions where veterans constitute less than 50%, or some other selected percentage, an indefinite waiver should be given until such time as the veteran population exceeds the 50% or other figure. This would relieve those institutions from going through an exercise in which the answer is obvious.

STANDARDS OF PROGRESS—DVB CIRCULAR 20–76–84, APPENDIX M

(Prohibition of Educational Assistance Payments for courses not counted to satisfy graduation requirements) and Appendix O (Unsatisfactory Progress).

During the fall of 1975, State Approving Agencies were required by DVB Circular 20–75–84 to establish broad minimum standards of progress for schools with courses approved under U. S. Code 38, 1775 (Accredited). It was the school's responsibility to develop their own specific standards of progress within the frame work that had been established by the State Approving Agencies and submit these standards to the appropriate State Approving Agency for approval. The minimum standards required that adequate records be kept by the school to show the progress of each eligible person; be sufficient to show continued pursuit at the rate for which enrolled and progress being made; and include the final grade in each subject for each term, quarter or semester. The policy required that the standards of progress be specific enough to determine the point in time when the eligible person ceased to make satisfactory progress so that educational benefits could be discontinued in a timely fashion. Included in the policy must also be the grade or grade point average that will be maintained if the student is to graduate.

School's were required to assess progress by considering subjects attempted versus subjects completed. Completion meant that a grade must be assigned and calculated in his grade point average. Schools were required to indicate that they, in their standards, had sufficient capability to promptly report not only unsatisfactory progress, but also drops, withdrawals, and unscheduled interruptions.

The Veterans Administration, in transmitting regulations, encouraged State Approving Agencies to impose additional criteria such as students withdrawing from a course after mid-term receive an F for the course in the absence of extenuating circumstances.

Even though a State Approving Agency had authority to require these standards of progress, it was necessary to accomplish a "selling" job to the schools to adopt specific guidelines within our broad minimum standards. Such things as measureable grades for all subjects dropped after mid-term was stronger than normally contained in the standards of progress for the majority of schools.

Standards of progress were designed to monitor pursuit, terminations, training time, withdrawals without penalty, nonpunitive grades, minimum grade point averages and other factors. The purpose was to eliminate payments to eligible persons for which they were not entitled. These standards have been successful in preventing abuses inasmuch as punitive grades are required to be assigned to courses dropped after a specified time—usually mid-term. This in no way is meant to imply that standards of progress are a cure all or that additional regulations are not needed to protect the taxpayer.

Appendix "M" is for the purpose of prohibiting payment of educational benefits for auditing a course or for a course which is not used in computing graduation requirements, including any course from which the student withdraws, unless there is a finding of mitigating circumstances causing the withdrawal. V.A. Regulation 14253 governs the approval of an accredited course and sets forth the qualifications (including standards of progress) schools must met. The terminology and examples of "M" are confusing to schools and State Approving Agencies. School officials immediately compare these circulars to the "Standards of Progress" and find themselves operating under two sets of rules. Even though these appendices may have as primary uses V. A. Claim examiners in field and other stations, they have been distributed to school officials and cover letters and/or explanations were sent to schools by the various Veterans Administration Regional Offices.

For example, Appendix M states in definitions "Drop-add period: A reasonable brief period at the beginning of a term (not to exceed 30 days) officially designated by a school for unrestricted enrollment changes by students." The majority of schools do have a drop-add period at which time the student may drop and add courses. Primarily this drop-add period is for the purpose of establishing a date at which time courses can no longer be added. This is confusing to schools inasmuch as many State Approving Agencies have included in their standards of progress that a course may be dropped prior to midterm without penalty in terms of progress. I realize that "M" is in terms of payment, but again it is confusing to school officials.

This circular also states the prohibition of educational benefits for a course which is not used in computing graduation requirements unless there is a finding of mitigating circumstances causing the withdrawal. State Approving Agencies went on record, by resolution adopted on March 17, 1976, supporting a regulation or law providing benefits for only those courses in which a final measurable grade was received. With this in mind it appears that State Approving Agencies, the Congress and the Veterans Administration subscribe to the same principle.

The State Approving Agencies believe that Appendix M and V. A. Regulation 14253, should each complement the other.

State Approving Agencies agree with the provisions of Appendix "O" but are of the opinion that simplification is in order and greater success would result from less detail.

MONTHLY CERTIFICATIONS OF TRAINING

In my statement of May 6, 1976, I stated that State Approving Agencies concur that eligible persons receiving benefits should submit an attendance cerificate authenticated by the school, stating that they are still attending the school, are in good standing, and are taking the course loads for which they are receiving benefits. I further stated that we believe that more responsibility for reporting any changes that affect educational allowances should be placed with the eligible person. It appears to me that the submission of monthly certifications would have a psychological effect on the recipients and make them aware that they must make a contribution to the process. Where else can you get a check without some proof that you are fulfilling your part of the contract?

State Approving Agencies, fully realizing their responsibilities, reported to the Veterans Administration and the House and Senate Committees on Veterans Affairs in March of 1975 that lack of control permits excessive absences and repeating of courses, and eligible persons receiving educational allowances to which they are not entitled has led to large amounts of money paid, which is unnecessary and legally questionable. By resolution, we urged that steps be taken to prevent a continuation of this waste.

GENERAL

One of our primary concerns is our inability to interact with the Veterans Administration before regulations, circulars, appendices, etc. are published and disseminated. We believe that within our association exists a virtually instantaneous mechanism which could obtain meaningful information in a short time. Dr. Sterling Provost, Utah, Immediate Past President, National Association of State Approving Agencies, and Mr. Mac Fleming, General Counsel, Committee on Veteran Affairs, U. S. House of Representatives, have corresponded concerning this subject. I respectfully request that these letters be accepted as part of this statement.

Also attached are statements from Mr. Charles C. Allen, Florida, Vice President, Mr. E. C. Stephens, Alabama, Secretary-Treasurer, and Mr. Paul S. Smelser, Missouri, Past President, National Association of State Approving Agencies, addressing PL 94-502. I respectfully request that these be accepted as part of this statement.

SUMMARY

1. Eliminate BEOG and SEOG in determining 85–15 percent ratio.

2. Make necessary changes so that Appendix "M", DVB Circular 20–76–84, and V. A. Regulation 14253 complement each other.

3. Our association has the capability to furnish meaningful input to the Veterans Administration in the preparation of documents implementing laws.

4. Reinstate monthly certification of training.

5. The Veterans Administration and State Approving Agencies are a part of a team with the same mission, goals and objectives the better we cooperate, the better we will carry out our individual responsibilities assigned by Congress. By and large, the relationship between State Approving Agencies and the Veterans Administration (Regional and Central) is excellent.

Mr. Chairman, this concludes my presentation. I will be pleased to respond to any questions you may have.

UTAH SYSTEM OF HIGHER EDUCATION,
STATE BOARD OF REGENTS,
Salt Lake City, Utah, March 21, 1977.

Mr. MAC FLEMING,
General Counsel, Committee on Veterans Affairs, U.S. House of Representatives,
Washington, D.C.

The lucid presentation and information presented by the support staff of the House Veterans Affairs Committee to our membership last week was most sincerely appreciated! We especially were grateful for your willingness to listen to the field problems with which we are confronted. All of us acknowledge that we are somewhat restricted in what we can and cannot do, yet our actions continually impinge on those outside of our group.

Of primary concern is, and it has been for many years, our inability to have the Veterans Administration's Central Office afford us reasonable opportunity for interaction with them before they publish and disseminate regulations, circulars, appendices, etc. We are convinced that within our organization exists a virtual instantaneous mechanism which could obtain meaningful information in a short time. This step, if assiduously followed, would save the V.A. (and possibly the Congress) much pain and embarrassment.

All essentially we are asking is a direct and timely opportunity to interact. We have been told by the V.A. that it is impossible to accord "all agencies" the luxury of contacting them on every issue affecting them before preparation and publication. Our reply to this: What other single agency has more to do with the effective functioning of the V.A.'s educational program than State Approving Agencies?! It is not right that we must wait, for comment, along with everyone else, until these materials are included in the Federal Register. Particularly when, in most instances, this is considered after-the-fact.

It is not that we expect all we have to contribute will be accepted. Rather, we merely want the V.A. and Congress to know what our experience has shown as we work with the schools and job establishments on a routine basis. It is our consensus that the input we have should be sought at the outset before publication is made, and that this process should be so stated in the V.A.'s procedure for obtaining official comment during the authorship and interpretation phase—certainly long before distribution is made and implementation expected.

If such a request is faulty, we would also like to be so informed and on what grounds. We again appreciate your past support for State Approving Agencies in general and the Association in particular. Please know that we stand ready to cooperate with you in every way possible.

With kindest regards and personal best wishes, I remain

Cordially,

STERLING R. PROVOST, ED.D.,
Coordinator, Veterans Education.

U.S. House of Representatives,
Committee on Veterans' Affairs,
Washington, D.C., March 24, 1977.

Mr. Sterling R. Provost, Ed.D.,
Coordinator, Veterans Education,
Immediate Past President, NASAA,
State Board of Regents,
Salt Lake City, Utah

Dear Mr. Provost: Thank you for your letter of March 21 in reference to our recent meeting here in the Committee.

I certainly enjoyed having the opportunity to discuss some of the things the Committee plans to undertake this session, and it was most helpful for me and other members of our staff to hear your views on how best to improve the communication between officials of the State Approval Agencies and the Veterans Administration. I certainly concur that affording you and others a reasonable opportunity for interaction before publishing and disseminating regulations, circulars, etc., would be most helpful and would prevent needless problems from occurring in the future.

I am filing your letter, and the Committee will certainly present this question to the VA officials when they appear before our Subcommittee on Education and Training during oversight hearings in this session of Congress.

For your information, these hearings will begin March 29 at 10:00 a.m. They will be quite extensive, and I am certain Frank Stover, Counsel for the Subcommittee on Education and Training, will be in touch with Marvin Busbee and your organization will be given an opportunity to be heard. Again, it was a pleasure seeing you, and I look forward to your next visit.

Sincerely yours,

Mack Fleming,
Chief Council.

Memorandum

State of Florida,
Department of Community Affairs,
Tallahassee, Fla., April 11, 1977.

To: Marvin P. Busbee, Director, Veterans Education, South Carolina.
From: Charles C. Allen, Administrator, State Approving Agency, Florida.
Subject: Public Law 94–502.

I don't have much new material to offer in connection with Public Law 94–502. We have already discussed most of the controversial provisions of the law either at the Washington meeting or on the telephone.

The 85–15% requirement in my estimation is unwieldy as implemented by the Veterans Administration. Although State Approving Agencies do not have basic responsibility for enforcing this requirement we do have responsibility to see that adequate records are maintained by schools which will allow the Veterans Administration to verify the Veteran/Non-Veteran Student ratio during compliance visits. Most of the complaints concerning this provision of the law stem from the record keeping requirements imposed on schools whose total veteran enrollment is only a small percentage of total enrollment.

The two year rule as applied to IHL bra[illegible] locations appears to me to be discriminatory as it restricts the private sch[illegible] to normal commuting distance or meeting the two year period of operation requirement when opening a branch location. I really can't see that this serves any good purpose but could work to the disadvantage of veterans in many areas.

I agree that some restriction was needed for correspondence courses, however, the six-months normal completion time requirement does not, in my mind, represent a logical approach to this problem. The effect was to disqualify some schools offering excellent short courses but still allow other schools offering questionable courses to continue in operation. I do not have an alternative solution to this problem at this time, however, the solution adopted, while betting some bad schools out of the veterans program also eliminated some good schools.

COMMENTS ON THE IMPLEMENTATION OF PUBLIC LAW 94–502, VETERANS EDUCATION EMPLOYMENT ASSISTANCE ACT OF 1976

The State Approving Agency of Alabama fully supports all of the provisions of Public Law 94–502.

We believe that the efforts on the part of the VA Central Office to implement the law through publishing of DVB Circulars 20–76–84 and the related Appendices have been made timely and reflect that much more thought has gone into their preparation and publishing. The schools have had the ample opportunity to take the necessary steps to prevent the occurrence of the many abuses that have been brought to light and to the surface through the investigations in the last few months.

They have failed to take the appropriate and timely action. Over 1.8 million dollars in overpayments have been paid to veterans and other eligible persons for which they were not entitled. We believe that 94–502 will go a long way in correcting these kind of problems.

In retrospect, we can now wage that the phase-in time for implementation has been allowed for the various schools to convert to the new requirements; however, we believe that any inconvenience suffered by the schools in the efforts to implement the regulations, are very worthwhile in view of the seriousness of abuses it uncovered. We would suggest that the VA call on the State Approving Agencies to make a committee for their input and evaluation of new regulations before publishing them. We feel that the SAA's could be of great assistance in insuring the smooth transition from old to new methods and procedures, if the SAA's had a more meaningful role in the developing of regulations and guidelines.

The Alabama State Approving Agency supports 100% the two year rule. We believe that it is reasonable, that it has been time tested, it is not a new thing and that if it is good for one level of training, it is also good for all levels of training. We feel exactly the same way about the 85–15 ratio requirements, and for the same reasons. The Alabama State Approving Agency has never been a supporter of the advance pay and the pre-pay policies. We feel that this practice alone has contributed a lot in the overpayment problem, and many times to school liability. The minimum standards of progress required in order for a veteran to receive benefits are very reasonable, and certainly are liberal. Benefits should not be paid for courses for which the veteran or eligible person withdraws or for which credit toward graduation is not awarded, of course in the absence of mitigating or extenuating circumstances. The Alabama State Approving Agency would recommend that if schools cannot or will not implement the law, then the various State Approving Agencies be given the responsibility for the natural assistance to approve enrollment of veterans in all courses in all schools and all establishments on an individual basis, therefore taking the responsibility that the veteran is enrolled in the proper course and that his progress is satisfactory and his qualifications for that course are in order. We believe that the State Approving Agency should also have a larger role in compliance surveys. This would require that the State Approving Agencies have at their disposal the information such as amounts of payment to veterans and other financial data concerning individual veterans.

STATE OF MISSOURI,
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION,
Jefferson City, Mo., April 14, 1977.

THE IMPLEMENTATION OF PUBLIC LAW 94–502

We wish to express our appreciation to the 94th Congress for the enactment of Public Law 94–502. The stated purposes of the law were to improve and expand and to prevent or reduce abuse of the educational assistance program provided by title 38, United States Code. Our experience to date is that the law is accomplishing its intended purposes.

We commend the Veterans Administration for conscientious efforts to develop regulations, policies, and procedures to implement the changes effected by PL 94–502. Implementation of the law has been difficult for several reasons. They include:

1. Extensive changes in approval criteria and limitations on payments of educational assistance.

2. Provisions of the law, which reverse permissive trends in educational philosophy, developed over a period of years. (For example, the "open door" policy and the giving of "no penalty" grades.)

3. Provisions of the law which increase the work loads of the Veterans Administration and State Approving Agencies and the administrative efforts and costs of educational institutions.

4. Resistance to change by educational institutions.

The Veterans Administration has found it necessary to modify a number of the original polices and procedures that were adopted to implement PL 94–502. This indicates a willingness to consider suggestions given by educational institutions, State Approving Agencies, and others. We believe, however, that the Veterans Administration should have the benefit of these suggestions and recommendations, whenever possible, before the adoption of policies and procedures. The National Association of State Approving Agencies has assured the Veterans Administration that representatives will be happy to confer with Veterans Administration officials whenever invited to do so.

There has been considerable objection, by educational institution officials, to the amendment to Section 1673 of title 38, United States Code, which expands the 15 percent non-veteran requirement to include courses offered by colleges and universities. The original instructions distributed to educational institutions would have required a great amount of administrative effort to compute and report the numbers in each course receiving assistance from the Veterans Administration, other federal funds, educational institutions, and the number not receiving assistance from any of these sources. There was an additional objection that a limitation on those receiving assistance from other federal sources was not properly a provision of title 38, United States Code. Apparently, the need for this limitation was to eliminate branches or extensions having an all or near-all veteran enrollment. There seems to be no need for it to apply to on-campus courses.

Generally, we believe that the provisions of PL 94–502 have been well received and that educational institutions are making an effort to comply. The additional limitations placed on the payment of educational assistance by the amendments to Sections 1674 and 1780 are proving to be effective in the substantial reduction of improper payments.

Section 1789 of title 38, United Stated Code is amended to require the approval of a branch by the State Approving Agency of the state in which the branch is located and to apply the two year rule (with some exceptions). This change allows the State Approving Agency of the state in which the branch is located to evaluate the quality of the educational program offered by the branch prior to approval and to supervise and monitor the branch for continued approval. This is an important improvement. Prior to this amendment, the State Approving Agencies having authority to approve the branch did not have the capability of evaluating and supervising the branch or extension.

Mr. Mottl. If you will remain, then, for some questions after we conclude with the other two witnesses. Thank you, very much, Mr. Busbee.

The next witness the subcommittee will hear from will be Mr. Cecil C. Byrd, acting executive director of the National Association of Veterans Program Administrators. Mr. Byrd?

Mr. Byrd. Thank you, Mr. Chairman. I would like to get a point of clarification, if I may. Is Mr. Marv Petersen listed separately?

Mr. Mottl. No, he isn't. The only remaining witness that we have listed here is Mr. Lloyd Davis.

Mr. Byrd. Sir, with the committee's agreement, what I would like to do is to take a few minutes to go through my statement, and then allow Mr. Petersen to briefly summarize a study that we did that the GAO suggested be done. If you would tell me when I have about 3 minutes remaining, I would like to present some specific questions.

Mr. MOTTL. As long as you can allot your time to approximately 9 minutes. OK? Thank you, very much.

Mr. BYRD. I appreciate the opportunity to appear before this subcommittee to comment on the effects of Public Law 94–502. As acting executive director for the National Association of Veterans Programs Administrators, I have, over the past few months, discussed 94–502 with many veterans programs administrators through the Nation. As director of an office of veterans affairs for a major university I have become directly involved with the new requirements.

This involvement has given me a very accurate picture of what 94–502 is doing to our Nation's veterans in higher education and potentially to all students. The picture is not good. We have once again singled out the veteran, not to go to war this time, rather to severely limit his attempts to successfully reenter civilian life and catch his peers, by placing yet another obstacle in the path toward obtaining the necessary education and skills for successful job placement. We have prescribed the educational institutions which he can and cannot attend and the courses he may or may not take, even though the institutions and courses have been approved by the State approving agency and accredited regionally.

We have set unreasonable time limits as to when he must complete his degree requirements with no consideration of educational, group, or individual differences. We have even gone so far as to dictate who his classmates are to be.

All of this is enforced in the name of curbing abuse of G.I. bill educational benefits. I assure you that though not intentional, the G.I. bill is still being abused, not so much by veterans, but, I submit, by the VA and the proponents of 94-502.

As legislators and professional educators, we cannot condone or encourage abuse and waste of tax dollars. But instead of dealing with the problem in an effective, efficient, and logical fashion, we have adopted a philosophy of locking everyone behind bars in order to insure that we catch the criminal.

Here is the result of the so-called antiabuse legislation. We have instigated unworkable and even ridiculous monitoring systems, which, if executed properly, would cost more dollars than would be lost through abuse.

We have opened up an entirely new area of Federal intervention into the educational community, substituting governmental dictates for what was formerly the prerogative of professional educators through scientific research. Finally, we have attempted to impose two mutually exclusive philosophies on our veterans' educational programs.

One states that veterans are unique and require special readjustment packages, and the other states that all veterans will exhibit middle-class values and attitudes, and progress at the same pace.

I will be more specific in my criticism and also propose some workable alternatives. First, higher education is itself largely to blame, I feel, for what has happened. With veterans comprising only 11 percent of the student population, I am ashamed to say that major institutions apparently found it poor strategy to involve themselves in bucking the Federal Government for veterans programs and rights. It was this apathy, ignorance, and myopic vision which allowed the Government to substitute its definition of satisfactory standards of progress for that of professional educators.

Further, Federal intervention totally outside the area of veterans programs is sure to follow and the educational community is in for a rude awakening.

We have arrived at our present dilemma as a result of higher education failing to assume its professional responsibilities as educators. The VA and the Department of Defense failed much earlier by not developing adequate readjustment programs for discharged G.I.s. Having failed or neglected to develop a total comprehensive readjustment package from the beginning, these agencies attempted to alleviate the problem with piecemeal decisions.

Such policymaking techniques invariably create tremendous problems and leave loose ends to attend to later. The resulting public outcry concerning the abuses left that unpleasant task to you, the Congress. The result was 11th hour legislation — untried, unresearched, unevaluated.

I state unequivocally that 94–502 is not the answer. What we must do is professionally analyze the problem and develop a comprehensive readjustment package for veterans.

I will not take the committee's time to discuss the numerous negative effects of Vietnam, but the scars are deep and the results are still be realized. We have made a tragic error of judgment in failing to realize who the Vietnam-era veteran is and what his needs are and to take preventive steps to address these needs.

I believe it is also time for Congress to look at how HEW supports programs for the handicapped, minority, and disadvantaged, and begin to apply those principles to veterans' programs. Within the ranks of Vietnam-era veterans——

Mr. MOTTL. Mr. Byrd, can you just conclude there, because we will totally accept your written statement that you are reading from, and submit it into the record, and so we can allow your associate some time.

Mr. BYRD. OK., sir, can I just make my recommendations?

Mr. MOTTL. Sure, if you can do it quickly, please.

Mr. BYRD. Number one, we recommend that a formal educational task force and advisory committee composed of professional educators representing higher education and the veteran should be established; that the implementation of the controversial appendices of 94–502 should be held in abeyance until such time as the committee can report back to this subcommittee and the VA with recommendations and solutions.

A comprehensive readjustment program for veterans should be developed, and the VA should contract with qualified institutional counseling centers to provide veterans with necessary comprehensive counseling. The present system is inefficient, providing little or no continuity, cooperation with the institutions and little or no followup.

The last one that I would like to mention is that the reporting fee should be increased to a realistic figure. Although the VA or Federal Government would not perhaps assume the total monitoring costs, a positive alternative would combine $25 to $30 reporting fee with increased work study slots at the rate of 100 hours for each 25 veterans enrolled.

Sir, I would like to have the opportunity to come back tomorrow.

Mr. MOTTL. I would be delighted to have you come back tomorrow. If there is no objection your testimony will be inserted in the record at this point. Hearing no objection, it is so ordered.

[The statement follows:]

PREPARED STATEMENT OF CECIL T. BYRD, II, ACTING EXECUTIVE DIRECTOR, ASSOCIATION OF VETERANS PROGRAMS ADMINISTRATORS

Mr. Chairman, and Members of the Subcommittee: I appreciate the opportunity to appear before this subcommittee to comment on the effects of Public Law 94-502. As Acting Executive Director for the National Association of Veterans Programs Administrators, I have, over the past few months, discussed 94-502 with many veterans programs administrators throughout the nation. As Director of an Office of Veterans Affairs for a major university I have become directly involved with the new requirements. This involvement has given me a very accurate picture of what 94-502 is doing to our nation's veterans in higher education and potentially to all students. The picture is not good. We have once again singled out the veteran, not to go to war this time, rather to severely limit his attempts to successfully re-enter civilian life and catch his peers, by placing yet another obstacle in the path toward obtaining the necessary education and skills for successful job placement. We have prescribed the educational institutions which he can and cannot attend and the courses he may or may not take, even though the institutions and courses have been approved by the State Approving Agency and accredited regionally. We have set unreasonable time limits as to when he must complete his degree requirements with no consideration of educational, group or individual differences. We have even gone so far as to dictate who his classmates are to be! All of this is enforced in the name of curbing abuse of G.I. Bill educational benefits. I assure you that though not intentional, the G.I. Bill is still being abused, not so much by veterans, but by the V.A. and the law-makers.

As legislators and professional educators, we cannot condone or encourage abuse and waste of tax dollars. But instead of dealing with the problem in an effective, efficient and logical fashion, we have adopted a philosophy of locking everyone behind bars in order to insure that we catch the criminal. Here is the result of the so-called anti-abuse legislation:

We have instigated unworkable and even ridiculous monitoring systems, which, if executed properly, would cost more dollars than would be lost through abuse. We have opened up an entirely new area of federal intervention into the educational community, substituting governmental dictates for what was formerly the prerogative of professional educators through scientific research. Finally, we have attempted to impose two mutually exclusive philosophies on our veterans' educational programs. One states that veterans are unique and require special readjustment packages, and the other states that all veterans will exhibit middle-class values and attitudes, and progress at the same pace.

I will be more specific in my criticism and also propose some workable alternatives.

First, higher education is itself largely to blame for what has happened. With veterans comprising only 11% of the student population, major institutions apparently found it poor strategy to involve themselves in bucking the federal government for veterans programs and rights. It was this apathy, ignorance, and myopic vision which allowed the government to substitute its definition of satisfactory standards of progress for that of professional educators. Further, federal intervention totally outside the area of veterans programs is sure to follow and the educational community is in for a rude awakening.

We have arrived at our present dilemma as a result of higher education failing to assume its professional responsibilities as educators. The V.A. and the Department of Defense failed much earlier by not developing adequate readjustment programs for discharged GIs. Having failed or neglected to develop a total comprehensive readjustment package from the beginning, these agencies attempted to alleviate the problem with piece-meal decisions. Such policy-making techniques invariably create tremendous problems and leave loose ends to attend to later. The resulting outcry concerning the abuses left that unpleasant task to you, the Congress. The result was 11th hour legislation—untried, unresearched, unevaluated. I state unequivocally that 94–502 is not the answer. What we must do is professionally analyze the problem and develop a comprehensive readjustment package for veterans.

I will not take the Committee's time to discuss the numerous negative effects of Vietnam, but the scars are deep and the results are still to be realized. We have made a tragic error of judgment in failing (1) to realize who the Vietnam-Era Veteran is and what his needs are; and, (2) to take preactive preventive steps to address these needs.

I believe it is also time for Congress to look at how HEW supports programs for the handicapped, minority, and disadvantaged, and begin to apply those principles to veterans' programs. Within the ranks of Vietnam-Era Veterans are great numbers of disadvantaged whose readjustment needs are being approached as nonexistent. We are all aware that an individual cannot be uprooted for two or three years, returned to the community and expected to function as if on equal footing. What are we doing for the minority veteran or those from low socio-economic backgrounds? We are totally ignoring his special needs. We should be providing career development and counseling and other guidance which will enable veterans to catch up to their peers. We talk about equal rights but practice survival of the fittest. Recent legislation has dictated that veterans do not have to maintain the same progress as other students—they must exceed the pace. Now is the time to stop further handicapping our veterans and begin removing the obstacles by becoming sensitive to individual motivations, attitudes, values, and learning levels.

Another point I would like to make is the V.A. has failed to recognize non-traditional education and make affirmative provisions for veterans to take advantage of them. Educational institutions have become sensitive to the changing needs and in fact, only those who have recognized their new role are surviving the diminishing student enrollment. Those responsible for 94–502 do not have a firm grasp of the goal of higher education which is to move an individual from a position of dependency to one of independency or interdependency, resulting in one's becoming a satisfied, contributing, and productive citizen. Even the Army is employing non-traditional educational techniques now.

Allow me to comment on a previous statement made to this committee, one which advanced the idea that a projected 32% decline in veteran enrollment by 1978 is proof that 85–15 and the two year rule are curtailing abuses. Data by the V.A. and HEW show that a more realistic explanation is the fact that 500,000 post-Korean Era Veterans lost their eligibility, roughly 30 to 35 percent of the entire veteran student enrollment.

That same statement mentioned that many schools with the greatest abuses were those whose enrollment was 90% veteran. I would reply that possibly those schools are 90% veteran because they have recognized the educational needs of veterans while other institutions remain asleep. I would like evidence that these schools are providing poor quality education.

I do not mean to suggest with my testimony today that the intent of 94–502 was unjust. We do need to prevent abuse, but we can accomplish that goal without the obstacles of 94–502. We can effectively prevent abuse by policing from the inside as opposed to being dictated to from the outside. The cost factor for efficient management and accountability is going to be tremendous, but it can be accomplished with fewer dollars than implementation of 94–502 will require. Before providing the Committee with specific recommendations and alternative solutions, I would like to ask Mr. Marv Peterson, Assistant Dean, Office of Veterans Affair, Weber College, Ogden, Utah and Board Member of NAVPA, to comment on the Reporting Fee Study and the costs of 94–502 compliance.

I would like to suggest the following recommendations for your consideration:

1. That a formal educational task force and advisory committee composed of professional educators representing higher education and the veteran to include members of VA, SAA, and COPA should be established.

2. That the implementation of the controversial appendices of 94–502 should be held in abeyance until such time as the committee can report back to this subcommittee and the VA with recommendations and solutions. The task force

or committee should provide Congress, the VA and other appropriate federal agencies with specific proposals and recommendations on all veteran educational programs. (I would be willing to provide the subcommittee with qualified members to serve on the task force.)

3. That a comprehensive readjustment program for veterans which would assist them in their successful re-entry into the community be developed.

4. That the VA should contract with qualified institutional counseling centers to provide veterans with necessary comprehensive counseling. The present system is inefficient, providing little or no continuity, cooperation with the institutions and little or no follow-up The counseling should be more career-development, planning, and placement oriented. A possible recommendation would be to use one month of single benefits to cover the costs of this counseling for veterans who request it or those for whom counseling is required. By formalizing ties with DOD, HEW, DOL, and the VA a preventive comprehensive readjustment package for veterans can be developed and implemented.

5. The higher education and accrediting associations be asked their assistance in dealing with the overpayments and abuses. Give them the opportunity now to report to you what steps they will implement to curb abuses. This should be accomplished at the regional level.

6. That the reporting fee should be increased to a realistic figure. Although the VA or federal government would not perhaps assume the total monitoring costs a positive alternative would combine 25 to 30 dollar reporting fee with increased workstudy slots at the rate of 100 hours for each twenty-five veterans enrolled.

7. That the possibility of providing financial aid for veterans who have exhausted their benefits or exceeded their delimiting date be investigated These veterans are eligible for no VA loan or workstudy and need it the most. Often normal financial aids routes are not available.

8. That efforts be made to assure standardization of implementation of veterans legislation. The present situation finds different VAROs with significant differences in interpretation of the law, thereby creating a situation of unequality throughout the nation.

In closing, I would like to commend you for opening 94–502 to public hearings. This in itself is evidence of your willingness to look closely at the effects and implications of a piece of legislation which was passed without close scrutiny. I urge you to tap the resources available in an effort to provide veterans with the best programs we can provide. Thank you.

Mr. MOTTL. Mr. Petersen, will you proceed?

Mr. PETERSEN. Thank you, Mr. Chairman.

I would like to refer my report to the committee for the record, if I could, please, and just briefly summarize what I did on this——

Mr. MOTTL. Your prepared statement will be submitted for the record, without objection. Without objection, it is submitted.

Mr. PETERSEN. Thank you.

[The statement follows:]

REPORTING FEE STUDY, PUBLIC LAW 90–77, TITLE 38, U.S.C. 1784

Conducted for: The National Association of Veteran Program Administrators (NAVPA). Study and Survey Directed and Compiled by: Marvin J. Peterson, Vice-chairman NAVPA and Assistant Dean, Office of Veterans Affairs, Weber State College, Ogden, Utah, February 1977.

VA REPORTING FEE STUDY AND SURVEY RESULTS

GAO REPORT

In March 1976 a report was made to Congress by the Comptroller General of the United States which dealt with educational assistance overpayments; this report is entitled Educational Assistance Overpayments, a Billion Dollar Problem—a Look at the Causes, Solutions, and Collection Efforts. The following information is found on page 15 and pages 40–41 of this report:

(Page 15.) "Each year since fiscal year 1967, pursuant to 38 U.S.C. 1784, VA has paid schools $3 for each veteran and dependent on their rolls as of October 31 to cover the cost of administrative activity and the preparation of required reports Since August 1974 VA has also paid schools an additional $1 for each student receiving an advance check that must be handled and delivered to the student at registration.

In the 8 years that the $3 reporting fee has been in effect, it has not been reevaluated to determine its adequacy in light of rising school operating costs and as an incentive for timely reporting of training status changes.

"In view of the identified delays in school reporting and school officials' comments about the inadequacy of the current $3 reporting fee, we believe VA should reevaluate the fee and, if appropriate, submit amendatory legislation to the Congress."

(Pages 40–41.) "VA agrees that a study would have to be made to determine the appropriateness of the current reporting fees paid schools by VA pursuant to 38, U.S.C. 1784, but VA has neither the funds nor staff resources to make such a study. Also, if such a study were made, schools would probably not be willing to provide VA with needed data on their costs of veteran-related reporting and recordkeeping."

The National Association of Veterans Program Administrators (NAVPA) made the decision to take this challenge and conduct a study as the GAO recommended. NAVPA's membership is made up mostly from veterans affairs directors at institutions of higher learning (IHL) campuses across America. An explanation of the problems IHLs face in certifying veterans to the VA and the results and recommendations of the study are as follows:

INSTITUTIONS OF HIGHER LEARNING CONCERN

College and university administrators in the United States have long been concerned about the amount of paperwork required to certify a veteran for attendance and thereafter to keep the VA informed of the veteran student's progress while enrolled in a postsecondary program. Initially, as stated in the GAO report, Congress instructed the VA to assist the colleges financially for the preparation of this paperwork by authorizing a Reporting Fee of $3 per veteran paid to the institution in October of each year. This authorization was made under Public Law 90–77, Title 38, U.S.C. 1784. When advance pay for veterans was authorized in 1974 the institution received an additional $1, or $4 per veteran, if an advance paycheck was issued.

It seems most IHL's Office of Veterans Affairs Directors and their presidents agree with the GAO report, that if accurate recordkeeping is essential, IHLs must be given the required financial resources to help control the estimated $1.4 billion in educational assistance overpayments to the veterans and dependents of veterans that was discovered in the 9½ year period ending December 31, 1975. The GAO report estimates that in 1976 alone overpayments should total more than $800 million.

As the result of this escalating trend of overpayments to veterans, Congress encouraged the VA to tighten its payment processing procedures and also required IHLs to more closely monitor the academic progress of veteran students and report any changes promptly (DVB Circular 22–76–5, issued March 5, 1976.)

INADEQUACY OF REPORTING FEE

An example of the inadequacy of the Reporting Fee is illustrated as follows. Prior to 1977 an institution enrolling 2,000 veterans as of October 31st each year received $3 for each veteran enrolled, or $6,000. An average amount of advance paychecks to be issued by the campus Office of Veterans Affairs (OVA) would be about 300 which would increase the amount paid to the institution to $6,300 annually. This amount was supposed to cover the administrative costs of all required reporting to the VA. The additional $2 that has been added to the Reporting Fee with the implementation of Public Law 94-502 would now give an institution with 2,000 veterans a total of $10,000. Also, PL 94–502 terminated advance pay after July 1, 1977, and after that date there will be few advance paychecks issued. Hence, no additional fee for issuing advance pay to veteran students for their registration.

As one can see, the amount stated above which the IHL would receive as a reporting fee would pay only one salary and benefits for a single clerk-secretary. A college that has 2,000 veterans enrolled would need a minimum of 4 fulltime employees plus a fulltime Director of Veterans Affairs in the administrative hierarchy to assure that regulations required by the VA are adequately followed.[1]

STANDARDS OF PROGRESS

In addition to the normal paperwork required in the certification of veterans and the reporting of charges in veterans' programs, Congress required the VA, as stated above to implement Standards of Progress, DVB Circular 22–76–5, and monitor each veteran's academic progress. The following items must be done by an institution in order to keep a veteran enrolled and certified with the VA for benefits:

IHLs must make certain that

1. Veterans are matriculated.
2. Veterans declare a major.
3. The veteran registers only for required classes in his declared major.
4. Make certain no classes are reported for pay that are not in line with veterans declared major or minor.
5. Veterans enrolled in Certificate Programs are checked monthly for attendance and reported to the VA.
6. A quarterly grade check be made to see if the veteran successfully completes classes he/she enrolled for at the beginning of the quarter.
7. Any changes in enrollment, including terminations, are reported to the VA promptly.
8. If a non-punitive grade is issued i.e. I—incomplete, W—withdrawal, NC—no credit, etc., a recomputation of the veterans expected graduation must be made and reported promptly to the VA.

DVB Circular 20–76–84, Appendix "H," revised, (85–15 Rule) amends Section 1673 of Title 38 of the U.S. Code, limits the percentage of students at public and non-profit private colleges who can receive veterans benefits, institutional student aid, and federal grants in each "course" to not more than 85 percent of all students in that course, with provisions for the VA to waive this regulation in whole or in part. Students must be counted by major (i.e., B.A. in English or Chemistry) after "the normal point at which students declare a major in that college." Before that point, they may be counted as a "general" group working toward a bachelor's degree, or a similar general goal. There are comparable provisions for less-than-baccalaureate programs and graduate and professional programs. (Proprietary schools were previously covered by the same law).

The VA (in Appendix H) has allowed a number of waivers relating to graduate education the way which institutional student aid is dealt with, allowing a count only of BEOG and SEOG and not of other federal grants programs, excluding many military education programs (as is provided in the statute), etc. But the VA will still require several kinds of counts. Each college will have to file a new application each semester or quarter with updated information.

The rule most applicable to undergraduate four-year colleges (under most circumstances) is that if no more than 35 percent of the students in a major (or in the non-major "general" group) are veterans in any major plus the percentage of total school enrollment receiving BEOG or SEOG is not over 85 percent the school meets the "85–15" requirement, and the requirement is in effect waived. But—colleges must apparently make appropriate counts, and file applications, in order to be eligible for this "waiver".

Further, such applications must be filed again, if there is any change in these counts, each semester or quarter, separately for courses which "differ" (i.e., there is an implication that evening or weekend courses may have to be counted separately from day courses), and separately for each separate branch or extension.

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[1] This information can be documented at Weber State College, Ogden, Utah, 84408 which has a normal enrollment of over 2,000 veterans.

The above is oversimplified, but gives some idea of the complexity of the reporting and paperwork procedures which may be required.

Appendix "C" to DVB Circular 20–76–84 has also been thrust upon the institutions and they were expected to comply effective December 1, 1976. This entails all courses offered by branches, extensions of off-campus courses out of the normal teaching area of the institutions. These courses must be approved each year. In many cases the beginning and ending dates of these classes are different by several days from the beginning and ending dates of the on-campus classes, however, the VA requires that each veteran enrolled in these classes be enrolled by the actual beginning and ending dates of the off-campus classes. This is further complicated by the fact that many students attend both on-campus and off-campus classes during the same quarter if the classes are taught within commuting distance.

Appendix "M" to DVB Circular 20–76–84 requires that institutions will not allow a veteran student to receive pay for a class when an assigned grade is not used in computing graduation requirements; i.e. "I", "W" (except for mitigating circumstances), CR/NC, etc. This again requires very detailed checking of veteran students' records and making necessary adjustments to the VA that is not required of other students.

Appendix "O", DVB Circular 20–76–84, the latest requirement issued to institutitns also effective December 1, 1976, requires further research of veteran student records to assure the veteran is not exceeding the length of time it normally takes a student to complete his/her degree requirements. A determination by the school has to be made on each veteran as to whether an extension in the length of the normal graduation time for that course will be required each time that course is not successfully completed. This, again, is not required of other students.

DVB Circular 20–74–113, Appendix B, issued May 12, 1975, requires that an institution which offers vocational-technical courses leading to a Certificate of Skill, Certificate of Proficiency and 2-year degrees will not be approved for training of veteran students if the school cannot show that at least 50% of the students completing such courses during a designated 2-year period will be employed in the occupational category for which the course was designed to provide training or in a closely related occupational category which requires a high degree of use of the skills learned from the course. This survey must be made at the end of each 12-month period following the initial survey which was made retroactive for 2 years. The regulation further requires that "all persons who completed a course during a specified 2-year period will be surveyed".

Again, it is demonstrated by the mere logistics of an endeavor like this, how time-consuming it can be to meet such a regulation. In the initial 2 year survey made, many of the students who had enrolled and graduated had moved and gone to other areas and it was almost an impossibility to locate them after that much time had elapsed. It is also expected that the school making this survey will obtain at least a 75% response rate from these graduates. The schools are also required to preserve the methodology by which the information was gathered.

BUDGETARY PROBLEMS

With dwindling enrollments facing postsecondary institutions, along with the loss of outside contributions becoming more prevalent, coupled with a cutback in VCIP funding, IHLs are finding it financially impossible to provide staff for the insurmountable amount of paperwork and other details required to meet VA regulations and to run a viable Office of Veterans Affairs.

SURVEY RESULTS

NAVPA, whose membership is composed mostly of veterans program administrators receiving financial assistance through the Veterans Cost of Instruction Program (VCIP), recently extended through the Educational Amendments Act of 1976, Public Law 94–84, decided they should survey a cross-section of its member institutions with a reliable questionnaire, scientifically designed, to gather valid data on what it actually costs to certify a veteran, to monitor his/her academic progress and to report these changes to the VA.

A total of 200 postsecondary institutions from each of the ten D.H.E.W. Regions were selected by random from institutions in the public, private and proprietary sectors. In order to ascertain the cost of the certification of veterans and other related duties, the questionnaire was designed to show what the exact cost is in relationship to the normal institutional cost when applied to other federal grants (Survey Form—attachment No. 1) in addition to the direct fixed costs.

Of the total schools surveyed, 152 responded for a total of 76%. Schools in 32 different states returned the questionnaire, or 64% of the 50 states represented. Four-year degree-granting institutions as well as 2-year junior colleges, community colleges and trade-technical schools received questionnaires. Sixty-three 4-year degree-granting colleges returned the questionnaires and the remaining seventy-seven were junior colleges, community colleges and trade-technical colleges. Twelve questionnaires were discarded because of errors in completing the form or because they contained insufficient data.

DISCUSSION OF FINDINGS

The study shows the costs incurred in certifying veterans and reporting changes to the VA considerably exceeds the $5 Reporting Fee payment provided by the VA. The study does not purport to measure what portion of the cost is directly related to the certification of veterans per se and what portion arises from monitoring of the academic progress of the veteran student as mandated by the Veterans Administration. Each of the participants in the survey were asked to figure in the cost of services such as counseling, academic advisement, etc., which is provided specifically for veteran students.

Costs to the institutions to certify a veteran range from a high of $106.46 to a low of about $14.58 with the average cost being $46.40. Cost to certify a veteran correlated strongly with the number of veterans enrolled in the institution; schools with smaller enrollments had higher costs than institutions with larger enrollments (See Table IV). However, in all cases the amount covered by the Reporting Fee was a small fraction of the identified costs.

One thing that was not taken into consideration is the relationship of certifications for veterans for advance pay and those who do not actually enroll. This is not considered by the VA when the institutions are reimbursed for the certification of veterans each year. Since the paperwork has already been completed and sent to the VA on students who do not enroll, this cost must be totally absorbed by the institution. The average cost reflected was computed on all administrative expenses incurred in the certification process including the cost of advance certifications.

The $46.40 average cost figure includes only the certifying of veterans enrollment at the beginning of their training and the reporting of any changes that occur in training while enrolled. It does not include the requirements in DVB Circular 20-74-113, Appendix "B" (50% employment requirement), or DVB Circular 20-76-84, Appendixes "C", "H", "M" or "O", Public Law 94-502, Veterans Education and Employment Assistance Act of 1976, explained above.

CONCLUSIONS

The GAO report, as stated in Chapter 2, Page 4, paragraph 3, says: "The primary cause of the growing overpayment problem, according to our review . . . has been the untimely reporting to VA of enrolled individuals' training status changes that reduce or terminate their monthly educational assistance payments. Also, directly contributing to the overpayments are VA processing problems and congressionally authorized multiple-month advance payments and monthly prepayments of educational assistance benefits."

Every competent school veterans affairs administrator is concerned with a waste of tax dollars and, therefore, realizes that their office has a responsibility to do everything possible to reduce overpayments to those veterans who are legitimately using their GI educational benefits. However, as indicated in this paper there has to be a limit to what can effectively be done with the limited financial resources possessed by the schools.

Table III trys to estimate what savings could be made if schools were to receive an increase in the Reporting Fee to a point where a competent, adequate staff could be employed to do the certifying and monitoring of the vet-

erans academic progress as was initially outlined and agreed to by each school in May of 1975. We sincerely believe the schools could and would administer these requirements if the Reporting Fee is raised and the money directed, by law, into the Office of Veterans Affairs on each campus.

The VA requirements that have been forced upon the schools with a threat to these schools of a loss of their approval to certify veterans to the VA for payment is finally reaching the veteran who is conscientiously trying to get his education as evidenced by the following statement: "For me, and I believe for most of my peers, one of the few real "bennies" of being a Vietnam veteran has been the GI Bill. It has been the major vehicle that has allowed us to reenter civilian society with some degree of parity. What I still can't understand is why the Veterans Administration continues to make it more and more difficult for veterans to attend the University like any other student."

This statement is heard quite often by veteran coordinators who deal daily with the veteran students and their problems.

Many veteran coordinators feel that these regulations have a deleterious effect upon the educationally disadvantaged veteran who is attempting to overcome a defeatest attitude which he has always had when he becomes aware of the extraordinary amount of regulations that govern his obtaining an education under the GI Bill; regulations which are not required of other students attending institutions of higher learning. It is a fact that many veteran students are saying they are being regulated right out of school. This should not be construed to mean that institutions of higher learning do not feel some sort of monitoring system should be required. However, there certainly comes a time when postsecondary institutions must be reimbursed if they are expected to carry out the mandates of the VA concerning the educational benefits of their veteran students.

TABLE I.—AVERAGE COST TO CERTIFY EACH VETERAN TO THE VETERANS ADMINISTRATION AND TO MONITOR VETERAN PROGRESS BY GEOGRAPHIC REGION; PERCENT OF TOTAL REPORTING BY LEVEL OF PROGRAM OFFERINGS, 1974-76 [1]

Geographic region	Schools offering below 4 yr level		Schools offering at 4 yr and above level		Total	
	Percent of total	Average cost	Percent of total	Average cost	Percent of total	Average cost
Eastern	35.0	$54	36.5	$48	35.7	$51
Central	27.3	55	27.0	27	27.2	41
Western	37.7	48	36.5	39	37.1	48
All regions	100.0	52	100.0	38	100.0	45

[1] Cost of implementing Public Law 94-502 (expanded concept of satisfactory progress, DVB circular 20-76-84, appendixes "A" through "O") not included. The instructions in this circular greatly increase the workload over the previous requirements.

Source: Survey conducted by NAVPA—fall 1976. (Marvin J. Peterson, vice-chairman, Weber State College, Ogden Utah 84408).

TABLE II.—PROJECTED TOTAL COST TO THE VETERANS ADMINISTRATION OF CERTIFICATION OF VETERAN STUDENTS BASED UPON INCREASED REPORTING FEES AND PROJECTED ENROLLMENTS

[Total cost in millions of dollars]

Reporting fees per veteran student	Veteran students' projected enrollments (in millions)		
	1976 (1.6)	(1.3)	(1.0)
$5 (present)	$8	$6.5	$5
$10	16	13.0	10
$15	24	19.5	15
$20	32	26.0	20
$25	40	32.5	25
$30	48	39.0	30
$35	56	45.5	35
$40	64	52.0	40
$45	72	58.5	45
$50	80	65.0	50

TABLE III.—ESTIMATED SAVINGS OF OVERPAYMENTS ACCORDING TO THE LEVEL OF REPORTING FEE RATES PAID TO IHL'S

Reporting fee	Total cost in millions of dollars	Percent reduction in overpayments	Overpayment reduction in millions of dollars	Savings in millions of dollars
$5 (present)	8	10	80	72
$10	16	20	160	124
$15	24	30	240	216
$20	32	40	320	288
$25	40	50	400	360
$30	48	60	480	432
$35	56	70	560	504
$40	64	80	640	576
$45	72	90	720	648
$50	80	100	800	720

NOTE.—Based on the fact that when reporting fees are increased IHL's can increase their office of veterans affairs staff and they will be more efficient in monitoring veterans progress and report to the VA promptly. This will reduce overpayments caused by IHL's not reporting promptly to the VA any changes in the veterans programs.

TABLE IV.—RANGE OF ACTUAL CERTIFICATION COST REQUIREMENTS BY DOLLAR AMOUNT FOR 4-YR AND 2-YR IHL'S

Actual cost reported by IHL	4-yr schools	2-yr schools	Schools by percent
$10 and under	0	0	0
$11 to $20	$11	$10	15
$21 to $30	12	10	16
$31 to $40	20	15	25
$41 to $50	12	16	20
$51 to $60	3	4	6
$61 to $70	1	4	4
$71 to $80	3	5	6
$81 to $90	1	6	5
$91 to $100		5	4
$101 to $110		2	1
Total	63	77	100

(Attachment No. 1)

.VA REPORTING FEE SURVEY

The following is the actual cost to certify a veteran annually. This pertains to certifications, changes, monitoring standards of progress, etc.

INSTITUTION: ____________________
____
Address: ____________________
____________________ Zip ______

SALARIES	EXPENDITURES
1. **Coordinators**	________
2. Counselors (fulltime)	________
3. Parttime counselors	________
4. Secretaries (include substitutes, relief, etc.)	________
5. Clerks	________
6. Student Aids	________
7. Fringe Benefits	________

SERVICES	EXPENDITURES
8. Conferences	________
9. Postage	________
10. Printing	________
11. Mileage	________
12. Other	________

OTHER SERVICES	EXPENDITURES
13. Space Rental (if any)	________
14. Equip. Purchases ($50 or less usually not depreciable)	________
15. Equip. Depreciation (5-10 yr. linear dep. rate)	________
16. Supplies & Duplicating	________
17. Telephone	________
18. Other utilities	________
19. Office cost of maintenance/squ. ft.	________
20. Janitorial Service (squ. ft. x cost)	________
21. Computer Costs (Pro-rata share unless actual cost available)	________
22. Administrative (Other) (Expense increased by OVA usually requiring assistance from Asst. Dean, Pres. or others who participate in OVA decisions, etc.)	________
23. Other (specify)	________

TOTAL EXPENSE $____________ COST TO CERTIFY EACH VETERAN $____________

(Divide total cost by number of veterans the VA pays for on printout - not your count of veterans.)

Signature ______________________________
____
(Title)

Mr. PETERSEN. Sir, and Mrs. Heckler, in 1976, in March, you have heard referred to in this committee before, the reports that were made by the GAO office, entitled "Educational Systems Overpayments—a Billion Dollar Profit."

On page 15 of that particular report, I would like to quote a statement.

> **Each year, since fiscal year 1967, pursuant to 38, U.S. Code 1784, the VA has paid schools $3 for each veteran and dependent on their rolls as of October**

31 to cover the costs of administrative activity and the preparation of required reports. Since August 1974 VA has also paid schools an additional $1.00 for each student receiving an advance paycheck.

In the 8 years that the $3 reporting fee has been in effect, it has not been reevaluated to determine its adequacy in light of rising school operating costs and as an incentive for timely reporting.

In view of the identified delays in school reporting and school officials' comments about the inadequacy of the current $3 reporting fee, we believe VA should reevaluate the fee and, if appropriate, submit amendatory legislation to the Congress.

Now, on page 41, there is a short statement there. The VA said this: "VA agrees that a study would have to be made to determine the appropriateness of the current reporting fees paid schools, but the VA has neither the funds nor staff resources to make such a study." NAVPA took it upon themselves to make this study, and this study that is submitted to you for the record will indicate to you each of the schools that sent back a report to us on this survey, and we feel that it was scientifically designed. It showed that the average costs to carry out the regulations prior to 94–502 cost each of the institutions an average of $46.40 per student to carry out these regulations.

We would ask that you would look at this study very closely and if it is in your prerogative, to recommend that a larger increase be made. We know that if it were, that the colleges are very competent and they are concerned about the overpayments, and a suitable, competent staff of people could be hired if the Congress insists on these regulations being enforced, to handle the reporting fees, get them promptly into the VA. As a result of this a savings could be made to the Federal Government, simply because then the reports would be made. As it stands now, it is physically and financially impossible for the colleges to finance this. Thank you, very much.

Mr. MOTTL. I am sure that the committee will look with interest on this study. Thank you very much, Mr. Petersen, for bringing that to our attention.

The final witness will be Mr. Lloyd Davis, executive director, National University Extension Association.

Mr. L. DAVIS. Thank you, Mr. Chairman. We appreciate the opportunity to present testimony to this committee. What I am going to do is present our statement for the record, and very briefly ad lib a very brief summary therefore, recognizing that my ad libbing will be quite inadequate.

Mr. MOTTL. Thank you, Mr. Davis. We certainly appreciate your cooperation. Without objection, your entire written statement will be submitted for the record. The Chair hearing none, it it is so submitted.

[The statement follows:]

PREPARED STATEMENT OF LLOYD DAVIS, NATIONAL UNIVERSITY EXTENSION ASSOCIATION

Mr. Chairman and Members of the Committee: We want to thank you for allowing us to testify today. We appreciate the opportunity to provide information about the effects of PL 94–502 on educational opportunities for veterans.

We represent the National University Extension Association, an organization of two hundred fifty higher education institutions. NUEA serves the extension and continuing education programs of those institutions.

I am Lloyd Davis, Executive Director of NUEA. With me are officials from member educational institutions. We will limit our testimony to the effects of the new law on the operation of educational programs under contract with the military services on or near military bases. My colleagues will be able to respond in detail from practical experience to any questions you may have.

We want to commend the committee for its efforts to curb abuses of the law by a small number of educational institutions. However, the law is causing problems for sound programs conducted by highly reputable institutions. We want to talk about these problems.

Since the passage of PL 94-502, it has become increasingly apparent that the application of that law to undergraduate and graduate level courses on military bases will do serious damage to the Department of Defense program of education, and may force the termination of education programs at many military bases. Unless the law is changed, it is highly likely that as early as June, 1977, colleges and universities will be forced to substantially curtail their educational programs on these bases.

POWER OF ATTORNEY

Until February 1973, the use of a power of attorney to effect tuition payments was considered in violation of the law. In 1973, the Veterans Administration reversed this interpretation in an attempt to induce more veterans to utilize their educational benefits. Department of Defense budget limitations on the Tuition Assistance Program caused servicemen to turn to in-service VA benefits to pay for their educations. In a short time, the various military commands and academic institutions came to rely on such benefits for over 75% of the costs of providing suitable educational programs. Most of the undergraduate programs were paid for by checks cashed under a power of attorney. During the two years of operation of the power of attorney system, it benefited tens of thousands of students. It was, however, a costly, burdensome procedure for the institutions and we welcome its termination.

Public Law 94-502 once again prohibited the use of a power of attorney with an effective date of December 1, 1976. The Veterans Administration interpreted this to mean that no checks could be cashed pursuant to a power of attorney after that date, rather than that a power of attorney could not be signed for this purpose after that date. Because of normal administrative processing delays by the VA, it requires a minimum of 3 months, and often 6 to 9 months, for the Universities to receive checks from the VA. This means that educational institutions are only now receiving checks for courses which were completed in December, 1976, or earlier. Unless they can obtain the signatures of students, the Universities will be unable to obtain payment for courses which began before the restrictions on powers of attorney were even passed by the Congress. And because of transfers of military personnel, difficult mail limitations and the like, it is impossible to achieve a reasonable percentage of tuition collections, so long after the students have enrolled.

We do not believe it was the intent of Congress to change the rules in the middle of the game. We believe it was your intent to prohibit the use of a power of attorney for all new enrollments after the effective date of the law. In one case, *Los Angeles Community College District* v. *Richard L. Roudebush*, a federal court found that the retroactive application of the law was illegal, thus permitting the college to cash $700,000 in checks. On the other hand, the University of Maryland University College has sought relief from the VA instead of through the courts. As of December 1, UMUC alone had over $2.7 million outstanding for courses beginning prior to December 1, 1976. Despite costly, time consuming efforts to collect these monies by directly contacting the servicemen involver, over $1.7 million in payments for courses already completed was still outstanding on April 1, 1977.

This problem can be solved quite simply by eliminating the retroactive application of the prohibition on powers of attorney. The participating institutions wholeheartedly support the provisions of the law as applied to registrations after the effective date, but it is essential that the law be amended to permit them to negotiate checks for students enrolled in erms beginning prior to December 1, 1976.

2-year rule

The "two year rule" prohibits the payment of Veterans Assistance to persons enrolled in programs of study which have been in existence for less than two years. An exemption is provided in the law for courses offered by public educational institutions and nonprofit educational institutions of college level. However, the exemption does not apply to courses offered at extensions which are located outside the taxing jurisdiction which provides support to a public institution; nor does it apply to extensions of proprietary nonprofit educational institutions where the extension is located beyond normal commuting distance from the institution. This means that most college level courses offered at military bases in the United States and abroad would be required to comply with the two year rule.

In approving the extension of the two year rule to college level courses, the Congress recognized that adverse impacts might be felt on courses offered at military bases. Consequently, a further exemption was provided for courses offered by educational institutions under contract with the Department of Defense which are given on or adjacent to a military base, are available only to active duty military personnel, and their dependents, and have been approved by the state approving agency of the state in which the base is located. Unfortunately, this exemption was not broad enough to include the majority of courses offered at military bases.

The population of these military communities usually consists of approximately 20–35% civilian employes of the military departments. Just as they constitute 20–35% of the installation population, these civilians and their dependents have, over a long period of years, constituted 20–35% of the enrollment in programs offered for the military community. In addition, under status of forces agreements with host countries, and pursuant to agreements between the United States and foreign governments, a small number of foreign military personnel are permitted to enroll in these courses. The inclusion of these civilians and foreign nationals in these courses, as required by the Department of Defense, means that the courses are not exempt from the two year rule.

The application of the two year rule to college level programs on military bases leaves the educational institutions with two equally bad choices. They can prohibit civilians and foreign nationals from enrolling in their courses in order to come within the terms of the exemption for courses offered on military bases. This would require that the institutions violate the terms of their contracts with the Department of Defense and the understanding reached with host countries. In addition, approximately 25% of the enrollment in these courses would be lost It is, in fact, this 25% of the enrollment in any class or section which enables programs on military bases to be academically and fiscally viable. Further, to deny these U.S. citizens the right to participate in educational programs designed for the military community in which they live and work, is discriminatory and violates the commitments made to these persons by the military services which employ them.

The Commander-in-Chief, U.S. Army Europe, in a message dated 9 March 1977 to the Adjutant General, stressed this point. He said: "The military requirements in the theater are such that a combination of military and civilian students is necessary to fulfill the promises made to the soldiers before they were assigned to USAREUR. The 85–15 percentage combination puts an imposible fence around the combination forces the Army to abdicate its responsibility to its soldiers, DAC's, and their dependents." (Copy of message is attached.)

The other alternative for the educational institutions is to comply with the provisions of the two year rule. While the impact of the two year rule on educational institutions in a stable environment is not severe, it can have disastrous consequences for programs offered at military bases. The law has been interpreted by the Veterans Administration to require that each military base be considered to be a separate extension of the University. A curriculum or course of study that has been long established at the home campus or a branch of the institution is treated as new under the two year rule when it is established at another branch. Consequently, the two year rule must be applied separately to each military base in determining which courses can be certified for Veterans Assistance. This means that each time the United States Army opens a new military base in Europe, no persons eligible for Veterans Assistance can receive benefits for enrolling in courses at those bases for the first two years. In addition, when the Department of Defense determines that a new course is necessary at a base which has been providing college level education in the past, those courses may not be certified for veterans benefits for two years.

The impact on educational programs is severe. Boston University currently operates 57 courses of study at various military bases in Europe. Twenty of those programs, with a total of 374 students, are less than two years old, and veterans enrolled in those courses will not be able to receive educational benefits. In addition, the University has been requested by the Department of Defense to begin two doctoral programs in Computer Sciences in Europe, and to begin teaching courses at a new location in Tehran. None of these programs are economically viable if the students will not be able to receive veterans benefits.

Similarly, the University of Southern California has been forced to exclude five civilians from enrolling in a new doctoral program for twenty students, in order to meet the terms of the exemption for Department of Defense programs. The University was forced to choose between excluding all civilians from its program or have those enrolled in the program be declared ineligible for veterans benefits. It would also be forced to cancel its planned opening of new programs at Kunsan Air Base and Camp Red Cloud Army Base in Korea.

The University of Maryland offered courses to tens of thousands of military personnel and civilians at scores of bases in Vietnam, Thailand and Laos between 1964 and 1975. If the two year rule had been in effect in the mid 1960's, not one of those persons would have been able to receive educations. If the United States is forced to commit its troops to other areas of the world, the two year rule will prohibit the educational community from moving to provide education for the servicemen at those locations.

The 85–15 rule

The 85–15 rule prohibits the payment of Veterans Assistance to persons who enroll in a program of study in which more than 85% of the students receive Veterans Assistance. PL 94–502 provides an exemption for courses offered on or adjacent to military bases which is identical to the exemption for the two year rule. In addition, the Veterans Administration is authorized to waive the applicability of the 85–15 rule where it is determined to be in the best interest of the veteran and of the United States. In Appendix H to DVB Circular 20–76–84, the Veterans Administration extended the waiver of the 85–15 rule to undergraduate and non-college degree students enrolled in courses on military bases which are open to military personnel, their dependents, and civilian employees of the military installation. However, no exemption has been provided for graduate or undergraduate courses which are open in addition to dependents of civilian employees or to foreign nations. Moreover, the exemption for courses open to civiilan employees does not extend to graduate level courses. The University of Southern California, University of Oklahoma, and Boston University all provide education at military bases exclusively on the graduate level. Consequently, the terms of the Veterans Administration waiver for courses open to civilian employees are entirely inapplicable to their programs of study.

The schools are thus faced with the same equally bad choices that they faced with regard to the two year rule; they must either exclude all civilians or third country nationals from their courses, or they must comply with the 85–15 rule. Specifically because the courses are offered on or adjacent to military bases, a high percentage of persons eligible for Veterans Assistance generally enrolls in these courses.

The impact of excluding all civilians has already been discussed. If the schools do not exclude these civilians from their courses, they risk jeopardizing benefits for veterans enrolled in every course in which the percentage of veterans approach 85%. Fifty seven percent of the courses offered by Boston University in the Spring, 1977 semester exceeded the 85% limit on veterans. Thirty two percent of the study centers operated by the University of Southern California exceed the 85% limit. Since the percentage of students receiving veterans assistance ranges from 59% for U.S.C. to 73% for Boston University, the loss of certification for benefits would be crippling.

The impact of the rule on courses offered in Korea is especially severe. The systems management program of U.S.C. would have to close down entirely in

Korea if the 85–15 rule were enforced. The Osan Air Force Base and Yong San Army base would lose their educational programs entirely. Undergraduate classes at Camp Ames and Camp Carroll would also be terminated entirely. While our examination of individual courses of study at bases throughout Korea is not yet complete, it appears that no student could be assured of receiving veterans benefits for enrolling in an undergraduate program in Korea, in any course of study in any semester, since the percentage of students receiving veterans benefits in Korea averages nearly 85%. We will provide more complete information on the impact of the 85–15 rule throughout Korea as soon as it is available.

Discussions with the Veterans Administration have failed to achieve a waiver for all courses offered at military bases. The Veterans Administration has stated that it cannot provide waivers of the 85–15 rule on a broader scope than is provided in Appendix H without violating the intent of the statute. And it has no authority to waive the two year rule. Given the harm that the 85–15 rule and the two year rule will do to the education of military and civilian personnel at military bases, the law should be amended to exempt all courses of study which are provided under contract with the Department of Defense, regardless of which students are enrolled.

Administrative capability at branches

The requirements in Veterans Administration circular 20–77–10 for an administrative capability at each branch location create special problems for universities conducting programs at military bases.

The regulations require a university to maintain enrollment records, to designate a branch certifying official, and to provide all needed reports at each branch. If enforced, these requirements will force the closing of programs at many locations and the subsequent loss of educational opportunities for many veterans, because of the high cost of providing those services at locations with small student bodies. We are aware of at least one institution which will be forced to terminate its educational programs on military bases if each location must maintain a separate administrative capability.

We believe the intent of the law can be complied with effectively with central university enrollment records and certification. In other cases, these administrative services can be provided effectively at regional centers. The Veterans Administration should hold the institutions responsible for keeping accurate, effective and complete records. It should permit the institutions the freedom to keep these records and to exercise the necessary control over their courses in ways that provide effective and efficient administration without prohibitive administrative costs.

State approving agencies

PL 94–502 requires that in order to come within the exemption available for courses offered under contract with the Department of Defense on or adjacent to military bases, the courses must be certified by the State Approving Agency of the State in which the base is located. The University of Maryland, the University of Oklahoma, and the University of Southern California all have significant numbers of courses offered at military bases outside the states in which their main campuses are located. Consequently, they are required to meet different standards for each state in which they are located. Naturally, the administrative costs of complying with the standards of a number of State Approving Agencies are high. In addition, the confusion among the State Approving Agencies and the Regional Offices of the Veterans Administration with regard to the approval of these courses has resulted in flatly inconsistent interpretations. The University of Southern California has found that the California State Approving Agency has not yet certified the courses located on California military bases. However, it has had no trouble obtaining certification for programs at military bases from SAA's in other states.

The confusion in the interpretation of the law extends to courses at military bases abroad. The University of Southern California was told by its State Approving Agency that it probably could not receive certification for a new Doctor of Education course at Brussels, despite the fact that it had taught a Masters of Education program there for five years, because of the two year rule. Yet other colleges and universities have had no difficulty in receiving certification for such courses.

Given the complexity of the law and the regulations of the Veterans Administration, it is unlikely that the inconsistencies in the interpretations of the law by State Approving Agencies can be eliminated quickly. However, two changes to the law would minimize the administrative burdens of compliance and at the same time reduce the likelihood that institutions which offer courses at military bases will be adversely affected by State Approving Agencies which strictly apply the provisions of the two-year rule and the 85–15 rule. First, a blanket waiver of the 85–15 rule and the two year rule should be provided for all courses under contract to the Department of Defense on or adjacent to military bases. This would ensure that the intricacies of the waiver provisions do not result in inconsistent applications of the law. Secondly, courses at military bases should be subject to the approval of the State Approving Agency of the state in which the home campus is located rather than the state in which the military base is located. In this way, the educational institutions will be required to meet only one set of criteria with regard to their programs at military bases.

My colleagues and I are available to answer your questions and to work with the Congress and the Veterans Administration to resolve these problems.

CINCUSAREUR HEIDELBERG GERMANY

Subject: Effect of the 85–15 rule and two-year rule.

1. In response to reference, the impact of the 85–15 rule and the two-year rule has been extremely detrimental to the education/training program in USAREUR. This impact is outlined below.

2. General impact of 85–15 rule:

A. USAREUR, being an overseas operational command, cannot rely on the typical college and university configuration of CONUS. Under the status of forces agreement (SOFA), only a few institutions are allowed to provide college-level training for the Army in the theater. Therefore, there is only a small, limited and finite number of institutions available to provide the only source of college-level instruction for the military (and their dependents), DOD civilians (and their dependents) and the other authorized personnel (e.g., retired military) who are assigned and live here. The Army (and other services as well) has an obligation to provide college education to all of the

A. Your 091607Z March 1977, same subject.

United States citizens (both military and civilian) in the theater. These personnel are here because of the military/operational commitment and requirements of the United States.

B. Because of the geographic dispersion, a very special military combat and community support structure that is spread throughout Europe, the Mediterranean and the Middle East, and the variety and broad spectrum of courses needed and college offerings required, the application of the 85–15 rule at some locations immediately cancels the conducting of courses and stops individuals from completing programs sometimes when graduation is imminent. of their basic rights and privileges.

This causes the overseas areas, through no fault of their own, to be deprived

C. The military requirements in the theater are such that a combination of military and civilian students is necessary to fulfill the promises made to the soldiers before they were assigned to USAREUR. The 85–15 percentage combination puts an impossible fence around the combination and forces the Army to abdicate its responsibility to its soldiers, DAC's and their dependents.

D. Further, the 85–15 rule militates against the unique requirement that USAREUR has to utilize the colleges in providing some specialized training that can be met only through college instruction.

2. General impact of the two-year rule:

A. In good faith, the U.S. Army contracted with civilian institutions to provide for the required college training as indicated above. Many of these contracts required the opening up of programs by the instittuions within the last two years.

B. Because of the geographic dispersion of troops and student population, the variation in size of communities, large number of small sites, and the shifting population incurred by military requirements, the course and program offerings must necessarily shift from community to community almost on a term basis so that the needs of the local communities can be met at the specific point in time. Students cannot go to a specific college location as in the States where a complete set of offerings would be available from term to term and year to year, but rather the colleges must carry their courses and programs to these dispersed and small sites and communities to address individual and community needs.

C. The colleges and universities, in order to met the demands of the U.S. Army, have established central offices in Europe to administer their programs; only courses on an intermittent basis are offered at individual locations.

D. It should be noted that since the universities and colleges are operating in a foreign environment at the request of the U.S. Army, there should be no state (e.g., Alabama, Georgia, etc.) political interest in a two-year rule.

3. In response to the specific areas listed in para 2 of reference, the following is the effect of the 85–15 rule and the two-year rule:

A Participation by soldiers in on-going programs:

(1) 85–15 rule will kill classes because the percentage requirement at many sites simply cannot be met in the rather unflexible environment and structures that are the reality of life in USAREUR. Therefore, participation will be considerably reduced.

(2) Strict application of the two-year rule will eliminate approximately 50% of the courses in approximately 75% of the locations (communities). The application of this rule has particularly adversely affected the vocational/technical area of college instruction. This level of instruction is one that has been the most recently started and yet is one of the most important to the command and to the potential students.

B. Expansion of educational opportunities; no expansion in USAREUR is possible. Both of the rules not only eliminate expansion, but in fact are causing draw downs.

C. Projected increase in OMA cost:

(1) General statement: because the offerings will be curtailed and any expansion completely eliminated, statistically there would be overall a savings in OMA. In short: no offerings, no funds expended.

(2) However, if USAREUR by some, as yet unforeseen and in a sense unconstitutional means, forces all authorized personnel to forego their use of their "GI bill" while they are in USAREUR, the OMA total cost in tuition assistance would be: fy 77 $597,000; fy 78 $11,000,000; fy 79 $11,500,000. (Note.—Figures are based on experience in part two years, which shows approximately 80% of pay to colleges was under veterans administration funds.)

4. In the interest of justice for the soldiers, and as a means of assisting the maintenance of operational readiness through education, this command strongly recommends that the 85–15 and two-year rules be amended to exempt the overseas commands.

Mr. L. DAVIS. First, we do want to commend Congress for its actions to eliminate abuses of the law. We want, furthermore, to offer our services and our member organizations to work with the committee and the Veterans' Administration in any way we can to ferret out any abuses that may exist with any of our member institutions and help to improve the administration of the program.

Our focus this morning is on one set of problems. These are the problems associated with the programs on or near military bases, conducted under contract or memorandum of agreement with the armed services. I have, with me, people from the University of Maryland, University of Southern California, Boston University, University of Oklahoma, and Los Angeles Community College who can respond in detail from personal experience to any questions you may have.

These people can come back again, too. I am here in Washington, and can help you at any time. Let me comment briefly on a few problems. One has to do with the power of attorney provisions in the law. I should say, first, that our member institutions have found this a cumbersome and expensive way to collect for the programs. They welcome a change.

The problem is simply this—that the law is interpreted as applying not just to new registrations after the effective date, but also to registrations and completions for previous terms, for which payment, as of the effective date, had not been received and cashed. This has left a number of institutions with great difficulties in trying to collect for some of those back terms or to cash the checks that they had received.

This runs into substantial amounts of money. The University of Maryland, for example, currently is trying to collect on $1.7 million worth of programs. We, in our testimony, provide a suggested relief for this one.

Another problem—some of the problems have to do with the 85–15 and the 2-year rules. I would like to say here that Congress, in passing the act, recognized that these contract programs on or near military bases had special problems and provides some exemptions—exemptions applying to military personnel and their dependents.

Many of the contracts with the military call for including in the educational program, civilian employees on the base and their dependents—and, in some cases, certain nationals in the countries where these programs are located. These persons other than military personnel account for, in the range of 20 to 35 percent of the total people enrolled in these programs—in some cases a higher percentage.

In order for a program to be economic, to be viable, a very high proportion of the programs are dependent on this additional enrollment beyond military personnel. If it is necessary to close out participation by these people, it will be necessary to eliminate the program on a large number of bases.

Another category of problems has to do with the SAA approval, and the widely varying standards being applied by different SAA's. Where an institution is working on several bases within this country and having to get approval through the several SAA's with widely varying standards, it causes a great many difficulties and high administrative costs, and many delays. Also, there are problems on bases overseas where two or more institutions have programs that have to be approved by two or more SAA's. We provide, in our testimony, some recommendations for dealing with this.

Another problem has to do with the requirement for administrative capability at each location. As the regulations now stand, at each point where these programs are conducted, there is the requirement for certain administrative capabilities to be present. Many of these locations are small locations. There are high costs associated with providing this administrative capability. If these regulations in their current form have to be followed, this requirement alone will make it necessary to eliminate programs on many bases.

Mr. Chairman, this has been entirely too hasty a review of these problems. We want to work with you. We would be happy to come back and provide any amount of detail that you would like. Mr.

Sherman, of U.S.C., who is with me, has a detailed statement with some of these impacts on his institution. If you would like, we can provide that for the record.

Mr. Mottl. Yes; we would like to have that for the record. Without objection, we will submit it at this time. Thank you, Mr. Davis. We certainly appreciate it. If you will remain there, Mr. Davis.

[The prepared statement of Herold H. Sherman follows:]

Prepared Statement of Herold A. Sherman, University of Southern California

IMPACT OF PUBLIC 94-582, APPENDIX C&H

The University of Southern California has conducted programs in higher education at the request of military organizations at study centers worldwide for fourteen centers. These programs have been conducted with the same high academic standards on and off the campus.

Changing military populations, from reductions in some areas and build ups in others, have made it necessary to adjust our degree programs by location as requested by the military and our contracts accordingly. Additionally, degree programs have been enhanced by the participation of government and industry civilians at the military study centers.

The appendices, C & H of the new public law, virtually destroy our ability to meet the requests and demands of the military groups, and will deny the enrollment of civilians and veterans at many locations. The consequent loss of revenue and added cost of administration will also result in the withdrawal of our quality programs from many locations where active duty personnel and veterans now participate.

The University of Southern California has approximately 5,000 students enrolled at 71 study centers in the U.S., W. Europe and the Far East. Master degree programs are offered in Systems Management, Safety, Public Administration, International Relations and Education. Doctoral Programs are offered in Education and Public Administration.

It is estimated that since November 1976, the University has expended more than 500 direct man hours per month (on campus only) in making the necessary applications for state approvals, and administering the changes brought about by the law.

Appendix H—"85-15 rule"

Thirty two percent of our study centers do not have the required 15% non-VA enrollments, required by Appendix H, and therefore must operate under the waiver that allows only in-service personnel, their dependents, or civilian employees of the military installation to be enrolled as new students. At nearly every one of these study centers some civilian students who desire to enroll, using their VA education benefits, have been turned away. Some examples of the negative impact of this rule follow:

a. Naval Training Center/Miramar Naval Air Station in the San Diego area—Seven new civilian students applied for the term beginning 4 February 1977, but could not be enrolled because of the 85-15 rule. (San Diego has only 7% non-VA.) This turn away hurt the University's credibility with the Education Directors at the civilian firms, as well as being costly because of the enrollment losses.

b. Corona Naval Weapons Station, California—The Center had to be closed due to low enrollments and six veterans who had been in the program for some time could not transfer to the Norton AFB Study Center because Norton did not have the required 15% non-VA students.

c. Attachment 1 is a list of study centers currently forced to deny the enrollment of veterans (out of service).

Appendix C "2-year rule"

Eighteen of USC's study centers are less than two years old. They, of course, are impacted by the two year rule. Some examples follow:

a. Subic Bay Naval Station, Philippines—The Center at Subic Bay has nine civil service students out of an enrollment of 26 (the center is less than 2 years old). If sufficient military students cannot be recruited to replace the loss of new civil service students, the center will be closed.

b. Taipei Naval Air Station—The center at Taipei has 8 civilians out of a total enrollment of 19. As Taipei is less than 2 years old, only military students or their dependents can be enrolled as new students. Since civilians, other than dependents, now make up over 40% of the enrollment, the center will close.

c. Kwajalein Missile Range—Kwajaliein is a study center at which active duty military personnel, desiring to use VA benefits, are not allowed to attend because primarily civilian students are enrolled there and the center is less than two years old. Because of this, we cannot abide by the exception in Par. 3 of Appendix C and must therefore deny personnel (including active duty) who would want to use VA benefits. We have 26 students, 24 civilians and 2 military members who are paying their own way. Some of the civilians would also like to use their VA benefits.

d. Attachment 2 is a list of study centers less than two years old. These centers cannot accept veterans (out of service) and other civilians which help to make these centers viable. Many of these will be closed.

Prospective new centers

In order to meet the demand of shifting military populations, it is sometimes necessary to transfer a program from one location to another. This, in terms of the PL 94–502, constitutes a new study center which must meet the requirements of Appendix C. Our plans have included establishment of programs on the following installations. The plans have not been implemented due to the restriction in the law.

a. Brussels, Belgium—After one year of planning, The USC School of Education developed and was ready to open a doctorate in education program in Brussels, Belgium in January 1977. Qualified personnel were identified and selected, textbooks ordered, instructional libraries planned, and instructional rooms selected before the new VA legislation came into effect. Because the actual start of the Brussel's doctorate came after the new VA legislation took effect, the entire program was delayed twice in the hope of VA clarification. The VA was unable to react quickly in view of the fact that the qualified students included both military and non-military personnel. Most non-military personnel were DOD civilians employed in the schools for dependents. Now it appears that cancellation is imminent in spite of planning and other direct costs incurred by USC. Interested students, about 40, are frustrated. USC has offered a master's program in Brussels for more than 5 years, but the doctorate was considered new. USC has offered similar doctorates at Karlsrule and Dormstadt in Germany, Torrejon in Spain, and Lakenheath in England for a period covering almost 10 years. To exacerbate the situation, another University was contacted by the Brussels' people. This University was approved by the SAA as operating one center in Europe and, therefore, could conceivably open a new doctoral center in Brussels, but USC could not.

b. Subic Bay, Philippines—USC was approved by the Navy Campus for Achievement Officer in Subic Bay, Philippines and was asked to open a master degree program in education. This was in June 1976. USC incurred costs in dispatching a person to Subic Bay in August 1976 to survey student interests. Plans were developed, personnel employed, books purchased (over $800 worth), etc., to begin operations in January 1977. The new VA legislation took effect in December 1976, The Subic Bay program was torpedoed because a sizable number of DOD teachers (as civilians) were included as prospective students in order to bring the remaining groups of military up to economic class size. The planned program at Subic Bay was cancelled because of the rigidity of the VA in applying the two year rule.

c. A serious problem is caused for many students because they cannot transfer from one center to another. As an example, a civilian student at the Heidelberg Center lives at Stuttgart. After a center was opened at Stuttgart, the student could not attend it because of the two year rule.

d. Several proposed centers requested by DOD agencies have not been opened because of the two year rule. Some examples are:

Masters of science in systems management program.—Fort Carson, Colorado; Peterson AFB, Colorado; Holloman AFB, New Mexico (the many civilians at the White Sands Missile Range would help to make this a viable center), Fort Bliss, Texas; and Tagu, Republic of Korea.

Ph.D in education.—(NATO), Belgium (addressed earlier), Yokota AB, Japan.

Education centers which may open but which will not allow VA students (all in California): San Francisco Bay Area, San Diego (10 Navy students denied entry), Ventura, Orange County, and Sacramento.

ATTACHMENT 1

USC study centers which do not meet the 85–15% ratio requirement:

	Percent
ISSM:	
Beale AFB, Calif	3
Edwards AFB, Calif	10
Malmstrom AFB, Mont	4
Mather AFB, Calif	14
San Diego, Calif	10
Vandenberg AFB, Calif	10
Loring AFB, Maine	13
Plattsburgh AFB, N.Y	3
Ft. Knox, Ky	7
Ft. Riley, Kans	3
International Relations:	
Augsburg, West Germany	7
Frankfurt, West Germany	6
Nurnberg, West Germany	8
Stuttgart, West Germany	12
Ft. Rucker, Ala	14
Kaiserslautern, Germany	12
Heidelberg, Germany	14
Worms, Germany	10
Hickam AFB, Hawaii	9
Wheeler AS, Hawaii	4
Kaneohe MCAS, Hawaii	3
Kadena AF, Okinawa	13
Yongsan AB, Republic of China	7

ATTACHMENT 2

USC graduate study centers which are less than two years old:

ISSM.—Castle AFB, CA; North Island NTC, CA; Barksdale AFB, CA; Ft. Campbell, KY; Ft. Leavenworth, KA; Cherry Point, NC; Camp Lejeune, NC; Pease AFB, NH; Quantico, VA; Kitzinger, W. Germany; Stuttgart, W. Germany; Osan AFB, Rep. of Korea; Subic Bay, Philippines; Taipei NAS, Taiwan; and Yongsan, Rep. of China.

Education.—Hickam AFB, HA; Sacramento, CA; and San Diego, CA.

The locations of the 2 study centers listed below were changed because of troop movements. Although this change is made to assist the students, it causes the new center to fall under the Two-Year Rule.

Vogelsweh, Kaiserlautern, W. Germany moved to Rhine Ordnance Barracks, Kaiserlautern, W. Germany.

Red Cloud was moved to Camp Casey and then, subsequently, closed.

Mr. MOTTL. If we can have Mr. Byrd, Mr. Petersen, Mr. Friedheim, Mr. Busbee, Mr. Fulton, Mr. Tirrell, President Horn and Chancellor Kibbee join Mr. Davis here for some questions by the members of the subcommittee.

Also, as I stated before, if you feel that you haven't had ample time, just arrange with Mr. Frank Stover, the gentleman over there to my left, and we will put you on the schedule either tomorrow or sometime in the very near future so you can have adequate time to make your presentation and make your facts known to the subcommittee.

First of all, I am going to recognize the lady from Massachusetts. Mrs. Heckler, why don't we limit ourselves to two questions and then keep going around until we have used up our time.

Mrs. HECKLER. Thank you, Mr. Chairman. I would like to thank the witnesses for curtailing their statements. I also would like to assure them that their statements will be read and analyzed in depth. It is unfortunate from your point of view, for your purposes and for our purposes today that we have so many other significant meetings that we must attend.

In fact, I am missing a mark-up session on Public Law 480. A mark-up session, as you know, is a drafting session for a law, so it is with a sense of divided conscience that I am sitting here, and I will not remain very much longer, but I will say this. I just have one comment, and that is the fact that I am impressed with the length of the testimony.

The problem remains. It is a public responsibility. We have a serious responsibility. Maybe my reaction to this occurred when I heard some of the promotional broadcasts on a radio station in Boston in which a local school was promoting veterans benefits at a local institution and the emphasis was on getting the money from the Federal Government—from Uncle Sam—and virtually no statement about the content of the programs or the educational relationship of the Federal investment.

The recruitment was strictly geared to getting that money and using your benefits and enjoying your rights, etc. Well, the fact is that we want to write fair laws and fair proposals. We want to cut out abuses. We also want to provide education to veterans—not merely Federal funding, because we have so many demands for Federal funding, on this committee alone, that we find it very difficult to divide the pie.

If you look at some of the veterans hospitals you will realize that the only needs for veterans are not merely educational needs. Now, then, within these constraints in mind, how do we adjust the responsibilities of the Federal Government and suit the needs of the veterans and deal with the problems of the institutions? That is a very difficult question.

So, then I have one question and then one that I would like to submit to you and ask you to respond to in writing in the future. The question that I have for you, Chancellor Kibbee or Mr. Horn, would be this question of dealing with the accrediting institutions. Are you suggesting that we have one standard for the universities and one standard for 2-year colleges? What accrediting institutions would you refer to? Obviously, a very large urban campus presents much more of an administrative problem in terms of determining the programs as they relate to veterans, etc. How could we devise a fair system dealing with all of the different kinds of educational institutions, without setting the university aside and giving it a special preference, or maybe that is what you would propose. How would you deal with this?

[The following letters were submitted in response to Mrs. Heckler's questions:]

American Association of State Colleges and Universities,
Washington, D.C., April 29, 1977.

Hon. Margaret Heckler,
U.S. House of Representatives,
Washington, D.C.

Dear Mrs. Heckler: As you know, President Stephen Horn of Californi
State University, Long Beach was one of the witnesses before the House Vet

erans Affairs Subcommittee on Education and Training on April 19. He has asked me, as the Director of Governmental Relations of AASCU, to respond to a question which you raised during the hearing.

As he understood you, your question to the higher education panel was to ask what changes the higher education community would advise, to deal with some of the problems of regulations and red tape occasioned by recent VA actions, while at the same time allowing the VA to deal, as it must, with abuses.

I think the best response we can make is in terms of a letter sent by Douglas Conner of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) to Rufus Wilson of the VA, dated April 15. Mr. Conner had called together a group at the suggestion of the VA, to work on this very problem. AACRAO has had a long association with the VA, and the group called included several college and state officials who work closely with VA regulations and have a clear idea of the paperwork and other problems involved.

Some of the April 15 letter (which Conner has given me permission to make a public document) was used in the testimony submitted by Dr. Tirrell of the American Association of Community and Junior Colleges (AACJC) on April 19.

In terms of the many calls and letters which our association has had from colleges, I would say the principal problems for our colleges appear to be as follows.

1. *Eliminating the two-year rule.* This rule has penalized a number of programs established to help veterans at locations removed from the main campus of an institution, including, I believe, a program established by Fisher College in your own district. So many public and private non-profit colleges operate branch campuses today that this rule definitely imposes a hardship on veterans who may otherwise not have access to postsecondary education.

2. *Eliminating the 85–15 rule.* Some of the same problems apply here. Some programs established specifically to help veterans (often with federal help from the Office of Education and VA veterans outreach programs) may not meet this rule. More important, the paperwork involved in computing the percentage of veterans in each course—and possibly having to refuse admittance to veterans if the figure exceeded 85 percent—means discrimination against such veterans. Further, counting BEOG and SEOG (and *all other* federal grant programs are included in the law, though they have been temporarily waived by the VA) requires far more paperwork and staff time, since no college keeps a record of BEOG and SEOG enrollments by course. It also further discriminates against veterans, since there is no limit on the percentage of BEOG-SEOG students who can enroll in any course, but an 85 percent limit on veterans. While the VA may theoretically continue this waiver beyond July 1, we believe it would be far better to amend the law and return to the previous situation.

3. *Appendix O.* As Conner points out, other parts of the present VA law state that institutions shall publish standards of satisfactory progress, and that there is therefore no need for special computations each term for each veteran, showing not only grade-point average but also how well he or she is fulfilling major and minor requirements and all other requirements for graduation. Therefore, Appendix O, which would require a massive expenditure of time and money by colleges, is not necessary and should be eliminated. It is not required by present law, because of the other statutory provision which Conner cites.

4. *Contact hours.* Conner points out that there is no statutory basis for the new VA reg of February 9, 1977, which sets the number of contact hours that college students shall meet in relation to credit hours. This has always been a matter for accrediting agencies to determine.

Of the above four points, *statutory changes* would be needed in the 85–15 and two-year rules, to revert to the previous law. No statutory action would be necessary to change present VA regs relating to Appendix O and to the contact hours reg. if the VA would withdraw them and revert to pervious procedures. If the VA will not do so, it appears that clarifying language as to the intent of Congress is called for.

Most colleges believe that if the VA suspects abuses of any kind, it should investigate those specific institutions and/or use the national and state accrediting agencies to do so. If the state agencies are not performing adequately, the VA should take action, since it provides a good part of their budgets from federal funds. But to force literally thousands of colleges to fill out endless forms and engage in endless meetings with the VA, or to go to court, hurts veterans, keeps the VA from doing its job, and also hurts the colleges.

I should add that the four points I have mentioned are those probably of most concern to our kinds of colleges. Others may feel as strongly about Apendix M (nonpunitive grades) or Appendix N (external degree programs).

But I believe that fairly simple legislation could take care of the four major problems I have pointed out. I believe some of the bills you are to hear on May 4 could take care of part of the problem.

I would be more than happy to meet with you and/or other members of the committee or staff at any time to discuss this further, and I am sure my colleagues would, too.

Sincerely,

JOHN P. MALLAN,
Director Governmental Relations.

Enclosure.

AMERICAN ASSOCIATION OF STATE COLLEGES AND UNIVERSITIES,
Washington, D.C., May 3, 1977.

HON. MARGARET HECKLER,
U.S. House of Representatives,
Washington, D.C.

DEAR MRS. HECKLER: In my letter to you of April 29, about ways in which the House Veterans Affairs Committee, the VA, and the colleges could work together to curb abuses and at the same time not intervene too deeply in the internal affairs of colleges, I repeated the point made by President Stephen Horn that if there are abuses the VA should either investigate the specific colleges involved or ask the appropriate accrediting and approving agencies to do so.

It later occurred to me that the VA could perform a special service by making a nationwide survey of the strengths and weaknesses of the present accrediting and approving process. Many of the abuses about which we have heard, it can be argued, stem from the degree to which state accrediting agencies in particular (and perhaps other accrediting agencies) actually monitor the quality of programs. This is particularly relevant since the VA pays a substantial share of the total budgets of state agencies—in California, for example, two-thirds of the budget.

I enclose three articles which bear on this subject. The first is a series of articles from the Boston Globe which Senator Brooke had reprinted on April 4, 1974, which may be very familiar to you. The last two pages deal with the Massachusetts approving agency and whether it does an adequate job. Without passing on the facts of this particular series, it is my strong understanding that many approving agencies lack either the staff or the training to monitor program quality, and that stronger state laws, like those proposed by Dr. George Arnstein in his two enclosed articles), are needed. Anstein is a recognized authority on accredition who is very concerned with these problems.

It might be well for Congress to ask the VA to make a major national survey of the whole approving process and ways to improve it. Many of the abuses which the VA has tried to get at through 85–15, the two-year rule, and other such approaches might be better dealt with through an intelligent review and overhaul of this system, with the aid of outside experts on education and accreditation.

Please let me know if I can be of further assistance to you. I might add that I have some familiarity with Massachusetts educational problems; I come from that state and served on two state boards concerned with higher education—and in fact was interviewed by you as a member of the Governor's Council on one occasion before I was appointed to a board!

Sincerely,

JOHN P. MALLAN,
Director, Governmental Relations.

Enclosures.

NATIONAL ASSOCIATION OF STATE UNIVERSITIES
AND LAND-GRANT COLLEGES,
Washington, D.C., May 5, 1977.

MRS. MARGARET HECKLER,
Cannon House Office Building,
Washington, D.C.

DEAR MRS. HECKLER: I am responding to a question you raised during testimony on April 19 presented by Dr. Robert Kibbee and some of his colleagues in higher education regarding the current state of affairs in our dealings with the Veterans Administration. The question you posed, while requiring complex strategies, was fundamental and simple as I recorded it. In essence, you asked what can we do to meet the problem of abuses of veterans education benefits, and at the same time meet the real needs of the veterans.

I beleive that that question summarizes almost anything we have tried to present to your committee and to the Veterans Administration itself. I believe, too, that on the following day when the hearings continued, you answered this question in part, when you succintly noted your concern with the impact the legislation of 1976 was having on veterans enrolled in institutions of postsecondary education. You are completely correct in noting that the House members' good faith action in passing the bill during the last hours of the 94th Congress was based primarily on the desire to make certain that veterans did not lose the increased benefits in the bill. At the same time, there had been no hearings and no serious analysis of the implications of the legislation, some of the more intriguing portions of which were conceived by the counsel to the Senate veterans committee, now the counsel to the Veterans Administration. In-depth hearings on the existing legislation would go a long way in allowing the real needs of veterans to be identified and to measure the extent to which the law now in effect makes meeting those needs impossible while it provides solutions to yet-to-be-created problems.

We, who represent institutions of higher education, can only partially address the question of what are the real needs of the veterans enrolled in our institutions. We can tell you what their needs are as students and the veterans themselves, represented by articulate spokesmen who lead their own associations here in Washington and elsewhere, will be the best spokesman for what their special needs are. We know from our experience that very often they do do fit the clasic definitions of full time students, 18 to 22 years old, 15 credit hours per semester and so on. That might have been true in the 1940s or even in the 1950s. The veterans our institutions enroll today tend to be older. They are frequently married and have families, are frequently men and women who have returned to receive advanced education after many years following military service. The demands of their lives, both in the work they have to do to maintain their families, and the demands of the families themselves, often require them to take courses in unusual places and at unusual times and in unusual formats. I say "unusual" only because I compare it with that standard notion of postsecondary education most of us experienced a decade or two ago. What they are experiencing however, is no longer unusual, as the higher education community becomes more responsive to the needs of its principal constituents, the students themselves.

It is important also to recognize that the abuses you refer to are very real. As a spokesman for an association, however, I am tempted to deny any abuses exist whatsoever, simply in response to the VA's incomprehensible refusal to identify time, place, name, date, while it creates an aura of "rip off," rife throughout the higher education community, and rife throughout the ranks of veteran students. It would be helpful if the country were informed not only how many dollars were advanced to students who inappropriately accepted them, but how many of those dollars have been recovered and just how great the abuses are today. GAO and other studies provide these facts. It would help, too, to know whether the abuses are concentrated at certain institutions or even at certain kinds of institutions or in certain part of the Nation. It would help, too, for the VA to inform us what precisely they are doing to curb these abuses.

In the testimony presented by Dr. Kibbee, he tried to stress the point that the VA's prosecutor mentality served only to generate antagonism without dealing with abuses. The abuses can be summed up generally in a simple description, even if they have many variations. They are fundamentally the receipt by a veteran of funds he is not entitled to under the law because he is not enrolled as a student. Another side of that abuse would be the abetting of the veteran's behavior by an institution aware of the illegality and unethical nature of the veteran's behavior.

For a year and a half, we have been meeting with Veterans Administration officials. The Veterans Administration in its testimony called this consulting with higher education community. I have attended those frustrating sessions and seriously question the VVA's good faith. Why, for example, has the VA apparently not even been willing to consider establishing the monthly sign-in procedure which worked effective during the years following the Second World War? This would compel the veteran, under threat of committing perjury, to certify every month that he was a student in good standing at that campus. There are offices representing the Veterans Administration on many campuses and the sign-in procedure could take place there or elsewhere. The institutions would cooperate in this fully. This might not prevent abuse, but it would make a dent in the most obvious ones. Certainly amending the pre-payment and advance payment procedures has already made a substantial dent in the abuses that have been taking place.

Perhaps we can address abuses of another sort. If a regulations means one thing in Illinois, a second thing in California and a third thing in New York, neither the veterans nor the institution responsible for assisting them can be certain what a policy is. This is an abuse of good sense, and of administrative efficiency, and puts into question the VA's protest that it is interested in the welfare of the veteran and in administering the law.

It is also abuse of integrity and good faith for the Veterans Administration, after three years of certifying a given program as a full-time program to turn about and inform the university housing such a program that it has four weeks to modify it or else all of the veterans students will be considered part-time. This ruling was made in Detroit in February in the face of certification by a regional accrediting commission, by other agencies in the federal government, by academic senate, and all others responsible for academic standards, that the program is indeed a full-time operation. Wayne State University has gone to court on this issue and won a preliminary injunction. We believe they will receive a permanent injunction. It is an unforgivable disgrace for relaitons between the Veterans Administration and the university community to have been allowed to degenerate to where the only meaningful communications now occur through third parties, the judges of the federal district courts.

To be straightforward and blunt, the behavior of the Veterans Administration suggests that it has become the student veteran's greatest antagonist rather than his protagonist and supporter. While we could not establish this with any degree of factual certitude, many of us believe that, unlike the agencies of the department of HEW with which there have been many clashes over the past years on regulations and other matters, but which are profoundly concerned that such clashes may result in students having to leave institutions of postsecondary education, the Veterans Administration seems to note that veterans dropping out of school will mean a saving in veterans benefits in their budgets and considers this not a tragedy but a fiscally prudent accomplishment. While I could not prove this through statements of policy in the VA, all evidence based on behavior of the past 18 months substantiates this.

Coming back once again to the notion of abuses. Students or officials of an institution who have knowingly abused veterans benefits are acting illegally. They can and should be prosecuted. All necessary laws are on the books for the federal government to proceed against them. Such actions have rarely taken place, and that too, leaves us with questions.

Finally, if we are to devise specific strategies to meet the needs of the veterans, and at the same time terminate and certainly alleviat abuses, it would be helpful if the Congressional committees would grant the plaintiffs at least the same amount of time they have granted the defendants in hearings. Two full days were devoted to having the Veterans Administration declare, incredibly, that all really is well, notwithstanding the court actions, the drop in enrollments of veterans, the threats by institutions to insist on being decertified and be done with the nonsense of harrassment by the Veterans Administration, either from the central office or the regional offices. Dr. Kibbee and his colleagues, representing at least 2500 institutions of higher education who enroll the vast majority of veterans students in the country were permitted a total of less than half an hour to present their concerns. We do not imply any malice by any members of the committee or your subcommittee or staff. However, we cannot deny the fact that the hearing we believe we need is still to take place. We would strongly suggest an open forum, perhaps in a less formal setting than an actual hearing, in which representatives of the veterans themselves and the institutions they attend, could come before the subcommittee of the House and discuss, problem by problem, how they view the situation and how they would proceed to assist in rectifying problems.

Perhaps because it is common for Members of Congress or other critics of the veterans benefits program to suggest that the institutions' interest is primarily a result of the income they receive from veterans enrollment, I should note that veterans enrollment in the institutions I represent, range from the miniscule all the way up to approximately eight per cent. In no instance is the institution in business to take advantage of the veteran and his benefits. In no instance are special courses or programs arranged except when they have gone through rigorous evaluation of standards imposed by the most conservative bodies protective of the values of higher education. We value the enrollment of veterans students in our institutions for all possible reasons, not the least of which are the best motives behind the veterans education benefits provisions of the Law.

I appreciate this opportunity to respond to your comments. Members of NASULGC and the staff of the association would be pleased to be able to assist you in any way you think useful in resolving this continuing serious national problem.

Sincerely yours,

JEROLD ROSCHWALB,
Director of Governmental Relations.

Mr. KIBBEE. Well, I don't know that I would propose a special set of regulations for universities. I think what I was proposing was the fact that the accredited universities and colleges in the country, with no exceptions that I know of, were set up to deal with--using the veteran as a target. They were there long before there were veterans, and the veterans have never represented a major portion of their people. The thrust of the committee, or it seems to me, what the committee in Congress was anxious to do was to look at institutions that looked like they were set up to pick off the money that the veterans would bring to them.

That just isn't the case with the higher educational community. There may be individual examples of veterans who have claimed to be enrolled, who are not enrolled. Where those things are legitimate, it seems to me that we should be responsible for those. But, what has happened, the whole 85–15, seems to me, was designed for that group of institutions which were primarily veterans institutions. They were set up to pick off the veteran enrollment. What it does to us is that it does what Mr. Horn suggested. That is that there is no way that we can go through and look at every course that we have, and by chance, find one with 17 students that has 14 veterans in it, and therefore, it happens by pure chance to be that kind of a course. To do that we would have to run through thousands and thousands of courses where the probability of it being 85 percent veterans is nil.

But, that is the kind of approach that I was talking about, and I think that we ought to recognize that.

Mrs. HECKLER. Mr. Horn?

Mr. HORN. If I might add to that. We are not trying to get a comparison between types of institutions. What we are saying is that when an apparatus exists, such as the accrediting agencies on a regional basis, and community colleges as well as senior colleges and institutions, are accredited, we suggest that the Veterans Administration might find that its ends were better achieved to work through those agencies who have continuing relations with these campuses.

If there are abuses in any aspect of the programs, such as false advertising, that is a legitimate matter for the accrediting agency to question whether that school should be placed on probation. Now, I mentioned, I would suggest a one-time blanket approval of accredited institutions, unless there is evidence of abuse, at which time, if I were a Veterans Administration administrator, I would say,

> Just a minute. I am going to put you on probation for a year and a reporting system, because our field investigation shows that you have done X, Y, and Z, and have not been as cognizant as you could have been with all of the relations involved.

I would like to get back, if I might, to your reporting of that ad on the radio. Many universities today try to communicate with a broader public as to opportunities on their campuses. Seven years ago when I became president at Long Beach, we set up an office for returning women.

We think it is important for people who are in their 30's and 40's, who are often women heading single families, to come back to the university or begin at the university to get an educational opportunity.

Four years ago we set up an office of handicapped programs. We try to consciously reach out to let handicapped students know they can come to an urban university and have complete access to the courses.

We have done the same with getting a bill through the legislature so that any senior citizen can go to Long Beach in San Jose and take a full load and pay only $3.

Now, we think those are out-reach groups that the university has a right to address. Veterans would be no exception. We do not think, though, that the emphasis should be on the money because, frankly, it isn't.

Our figures show that it is costing us money to administer a veterans' program in Long Beach and the Veterans Administration is not reimbursing us for it. For example, just in the smaller item, that is, the enrollment certification services are funded by these reporting fee funds.

We received $15,388 this year and our budget is $60 million. That pays for about 1½ veterans' clerks at $5 per veteran, roughly. Our cost is about $58 per veteran, administratively.

So, we would think that the accredited institutions are in a different situation than somebody that might design fly-by-night courses here and there to get to the barber shop example that was cited earlier, which is an outrage, and, of course, if that occurred in Illinois, I would think the State of Illinois licensing authority for barber colleges ought to be called into question, because that would be wrong whether there was a veteran in the room or not in the room.

Mrs. HECKLER. I think that you have made some hopeful proposals. I do commend you for your outreach. I would like to say that I think it is very interesting that we are here discussing veterans' programs and veterans as students, and I do think that Mr. Byrd makes a very good comment about the lack of real readjustment in the system, both on the part of the Veterans Administration which doesn't always seem capable of dealing with this and on the part of the universities and colleges, really.

Now, granted, this is something that is extraneous, but I would ask for your specific responses to an organizational answer which Congress could adopt—you have given us part of this—but I would like to have each of you, as witnesses, to suggest a specific strategy which can meet the problems of abuses, and at the same time, deal with the problems of veterans in terms of education and your needs as institutions.

And include in that your proposals for addressing the problem of the veteran as a student within your institutions, what you might do further and what you think the VA might do and the Congress.

Our problem is not only the constraint today, but the constraint of time. If we are going to pass a law—we are now in April—we will have to try to nudge our colleagues in the other body. And that does take some time under certain circumstances.

If we revise this law, we will have to do it before January's term to be helpful to you and to be helpful to students. We don't have very much time, so I would ask for your practical responses as a result of this—what you would have said if we would have had further interrogations and a dialogue.

Mr. MOTTL. Mrs. Heckler, I appreciate your questioning. Congressman Wylie, you would like to submit some questions to be answered for the record?

Mr. WYLIE. I will submit my questions for the record.

[The following questions were sent to several witnesses whose response follows:]

QUESTIONS FROM CONGRESSMAN CHALMERS P. WYLIE FOR THE SEVERAL WITNESSES WHO TESTIFIED BEFORE THE SUBCOMMITTEE ON EDUCATION AND TRAINING ON APRIL 19 AND 20, CONCERNING PROBLEMS CERTAIN EDUCATIONAL INSTITUTIONS HAVE EXPERIENCED IN THEIR EFFORTS TO COMPLY WITH PUBLIC LAW 94-502

On April 19th and 20th the Subcommittee on Education and Training held hearings on problems that the Veterans' Education and Employment Assistance Act of 1976, P.L. 94-502, has caused educational institutions participating in the G.I. Bill program. Although ancillary issues were touched upon by the several witnesses, the crux of the problem centers around the 85-15 and two-year rules and standards of academic progress.

These institutional restraints were instituted by the Congress in an effort to alleviate a number of serious abuses that had occurred under the G.I. Bill which have cost the taxpayers dearly while inhibiting a number of veterans from obtaining a quality education. In general, the witnesses expressed opposition to the 85-15 rule on grounds that it discriminates against veteran beneficiaries and does not logically relate to a quality education. The two-year rule was attacked on similar grounds and because it prevented veterans from taking courses until the two-year period had lapsed. There was much criticism of the academic progress provision on grounds it established different standards for veterans than those imposed on other students and interferred with institutional academic freedom to set such standards.

From my frame of reference, there appears to be a considerable amount of complaining in this regard and a lack of appreciation for the serious problems facing the Congress that lead to the enactment of P.L. 94–502. There is a recurrent theme that schools would rather not be bothered by such rules that interfere with their standard operating procedure and impose certain additional administrative expenses. There is also an undercurrent that boils down to money, the money obtained from veteran students that would not otherwise be available. One gets the impression that the complaining educational institutions would like to have their veterans' goodies but not pay any administrative price or have any related responsibilities.

The problems raised by the witnesses may well be a minor burden to them that is ancillary to normal institutional operations. I would like to point out, however, that the serious costly abuses that have occurred in the G.I. Bill program are not ancillary to this Committee. Veterans and the efficient administration of programs for veterans are the sole responsibility and purpose of this Committee. We have a mandate to make them work and get the most benefit from each tax dollar expended.

I would like the witnesses to answer the following questions pertaining to P.L. 94–502.

1. What is the percentage of total revenue accruing to the schools you represent that is derived from veteran students matriculating under the G.I. Bill?
2. If the 85–15 rule, the two-year rule, and standards of progress were repealed, by what percentage would the revenue from veteran students increase and by what percent would internal administrative costs decrease?
3. How would the witness deal with the abuses that the 85–15 rule, the two-year rule, and the standards of progress were designed to prevent? A detailed answer please, because your professional backgrounds may provide the subcommittee with a new remedial approach.
4. What should be the legislative responsibility of the Congress and the administrative responsibility of the VA to eliminate student and institutional abuse of the G.I. Bill?
5. Are there any academic professional organizations which could propose and implement a comprehensive code of procedures to handle the aforementioned abuse? What I am suggesting is a self-policing procedure created by the educational community to deal with these problems.

AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES,
Washington, D.C., May 2, 1977.

Hon. CHALMERS P. WYLIE,
U.S. House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN WYLIE: We have received your questions in regards to the testimony before the Subcommittee on Veterans' Education and Training presented April 19 and 20, 1977. Cong. Mottl requested these be answered for the record. We are willing to do so, although it appears they were probably written by your very busy staff, without referring to the written testimony submitted by Chancellor Kibbee, William Lawson, Stephen Friedheim or myself— for all the questions were answered by one or more of the presentations.

Before responding to the specific questions let me say that instead of a "considerable amount of complaining," a number of the witnesses were saying the federal intervention into the States' constitutionally delegated responsibility—education—with complex and costly procedures, was questionable. This is so questionable that almost 30 cases have already been taken to the federal courts and more are surely coming—if the Committee does not act.

Also there was no "lack of appreciation for the serious problems" but we were pointing out the multiple remedies legislated were not necessarily useful in solving the problem.

The major problem was overpayments. We have agreed with the GAO Report last spring that the removal of advance and prepayments was the best, and most effective action, to attack the overpayment problem. We applauded your action in doing that in P.L. 94–502.

You raise the "goodies" or money. The new bill provides $5 to the institution for each eligible veteran. You can see in the cost study attached to Mr. Lawson's testimony, it cost the institution $40 to $60 per veteran to handle this administrative service. As a result of the May 31, 1976 delimiting date, the community and junior colleges of the country have almost 200,000 fewer veterans with educational benefits this year. Yet, our overall enrollment still increased a few percent. In California, for example, there is no tuition for residents in that state. Thus, those 104 colleges received no dollars from the veteran. With the average tuition for two-year colleges across the country being only $230 per year—the enrollment of veterans is a matter of service, not a financial windfall.

With these comments on your prologue, a brief response to your fine questions.

1. With about 300,000 veterans enrolled at an average tuition of $230 per student, this could mean about $69 million from veterans. Added would be the $5 per veteran from the V.A., or a total of a bit over $70 million. The operating budgets last year for the two-year colleges in the U.S. were about $5 billion. Thus the veterans funds would be about 1.4% of the operating budgets.

2. The repeal of the 85–15 and two-year rules, and the standards of progress, would *not* increase the revenue to colleges to any degree. The projected administrative costs would be reduced by over $15 million in the two-year colleges of the country. (This is an estimation since the computations required for the 85–15 rule and standards of progress could not be done by most institutions).

3. As stated in our testimony:

(1) Have Vet sign-in on campus.

(2) Have V.A. employees on campus, Vet-Reps, check on vets.

(3) Place stern warnings in each check and prosecute those who cash "unearned" checks.

(4) If needed, have Vet send a copy of his or her transcript to the V.A.

(5) As for 25 years, work with the State Approval Agencies in reviewing each institution.

(6) As for 25 years, rely on the regional and national accrediting agencies for quality evaluations.

4. With the action already taken by the Congress (in removing advance and prepayment) most of the overpayment problems will be solved. The Congress should look at other parts of the GAO Report to see why the V.A. staff, such as the over 1,000 Vet Reps on campus, cannot be more alert to problems at an early stage. This, plus the *six* points listed in No. 3 above would be an action program, within the constitutional framework, continue education for veterans, and provide the safeguards you and others desire.

5. The self-policing you request has been most successful for most of this century by the voluntary regional and national accrediting associations. This, plus the specifics provided in the attachment to my testimony prepared by the American Association of Collegiate Registrars and Admissions Officers should address this concern. You will note that the AACRAO statement indicates the academic community is ready to work with 9 of the procedures proposed by the V.A.

AACJC is most appreciative of the opportunity to respond to your questions. We hope this is helpful to you and your Subcommittee.

Sincerely,

JOHN E. TIRRELL,
Vice President for Governmental Affairs.

AMVETS,
Washington, D.C., May 4, 1977.

HON. RONALD M. MOTTL,
Acting Chairman, Subcommittee on Education and Training, House Committee on Veterans' Affairs, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN MOTTL: In response to your letter dated April 29, 1977 and attached statement and questions from The Honorable Chalmers Wylie, we wish to submit the following observations and opinions to be included as a part of the Hearing record:

We should like first to comment on Mr. Wylie's statement that "one gets the impression that the complaining educational institutions would like to have their veterans' goodies but not pay any administrative price or have any related responsibilities." This statement, in our opinion, is the most succinct illustration yet to be presented of the apparent attitude of many institutions which, we feel, has led to student and institutional abuses of the VA educational program.

Mr. Wylie's questions are constructed in such a manner that the institutions themselves must address them. AMVETS is historically in favor of programs which will benefit our Nation's veterans. We are, conversely, opposed to legislative language which would inhibit the veteran student, in this case, or the institution, in the full implementation of these programs. However, we take the realistic viewpoint that certain oversight measures must be taken in order that abuses are kept to a minimum, if not completely eliminated.

Whereas the 85–15 and two-year rules may not be the ultimate solution to the abuse problem, we are hard-put to suggest any alternative remedial measures. Perhaps, as Mr. Wylie suggests, "a self-policing procedure" by the educational community is in order.

In the absence of alternative policing measures, we are constrained to concur with the 85–15 and two-year rules as contained in P.L. 94–502 in order to ensure the greatest return for the tax dollar spent.

We are forwarding, under separate cover, our response to your questions concerning the unemployment problems of our Nation's veterans.

Thank you, Mr. Chairman, for the opportunity to express our views. We look forward to working with you on all matters of mutual concern.

Sincerely,

C. DENNIS MCCLURE,
National Service and Legislative Director.

NATIONAL UNIVERSITY EXTENSION ASSOCIATION,
Washington D.C., May 11, 1977.

HON. RONALD M. MOTTL,
Acting Chairman, Subcommittee on Education and Training, House Committee on Veterans Affairs, Washington, D.C.

DEAR MR. MOTTL: I am writing in response to your letter of April 28 and the questions raised by the Honorable Chalmers Wylie.

We testified on behalf of institutions that are members of the National University Extension Association concerning problems caused by Public Law 94–502 in connection with programs these institutions conduct on or near military bases under contract with the military services.

These institutions are performing a service to military and civilian personnel in those military communities at the request of the Department of Defense. They are proud of their educational programs and the service they perform for the nation. Their interests are in being able to fulfill these contracts and to be able to continue to provide needed high quality educational programs to these military communities and to serve the educational needs of the military and civilian personnel that make up those communities.

The emphasis on revenue in the questions implies that effects of the law on revenue are the major concern of these institutions. Of course, these institutions cannot long operate on military bases at a financial loss and public institutions cannot expect their taxing jurisdictions to pay costs of programs on distant military bases. However, a primary concern is their ability to continue to serve educational needs of the communities on military bases with programs that meet high academic standards.

The following information is provided in answer to the questions:

Question 1. What is the percentage of total revenue accruing to the schools you represent that is derived from veteran students matriculating under the GI bill?

Answer. We do not have and were not able to obtain accurate and complete data in the time available. The institutions we represent are a fairly representative group of American institutions of higher education. We believe the data for our member institutions would be very close to the average for all higher education institutions, less than 5 percent of total revenue. For example, the University of Southern California, a private institution, receives 7 percent of its tuition income (not total revenue) from V.A. students. This includes tuition payments by students on and off the campus.

Question 2. If the 85–15 rule the two-year rule, and standards of progress were repealed, by what percentage would revenue from veteran students increase and by what percentage would internal administrative costs decrease?

Answer. Under these assumptions, a sample of our member institutions indicates that enrollment (as well as costs and returns) in programs on military bases, would be about equal to the fall of 1976.

The decline in enrollments and revenues since December 1, 1976 has been quite variable. The full effect of the new law and regulations was not fully felt in enrollments for spring terms of 1977 and will not be fully felt for some time. There are several reasons for this gradual impact: (1) Under the 2-year rule, veterans enrolled on the effective date may continue, but new enrollments of veterans are prohibited in courses not satisfying the exemption. As more of these previously enrolled veterans complete courses, the total enrollments in more courses will drop to the point where income from the courses will not permit their continuation. (2) As troops are shifted from one base to other bases, so are the courses. Thus, courses that were "old" become "new", since the V.A. has said that courses at new bases are subject to the 2-year rule, resulting in denial of entitlement for veterans, and reduced enrollments. (3) The several provisions are being applied at different rates by several SAA's and V.A. field offices. For example, most institutions are not now sure how their programs will be affected by the regulations applying to maintaining administrative capability at branch locations. If this regulation is strictly interpreted and applied, it alone will cause the closing of programs at many locations.

We can provide examples of the impacts of programs during the spring 1977 term and projections for the future for military programs conducted by several institutions:

The University of Maryland experienced a drop in revenue from $4,291,155 to $3,983,576 with an estimated increase of 15 percent in administrative costs. Of this revenue, the percentage from veteran students dropped from 43 percent to 16 percent. University of Maryland officials project a continuation of the current level of income with about 15 percent from veterans benefits in the fall of 1977. During this period the University will deny thousands of veterans opportunities to use veterans benefits to finance education.

The University of Southern California has had an increase in revenue between the fall of 1976 and the spring of 1977 from $2,790,000 to $2,846,000. The proportion from veterans has declined from 66 percent to 61 percent. By the fall term of 1977, a decline of revenue to $2,500,000 is projected due to a further reduction of 20 percent in enrolled veterans. This is 750 veterans who will have been denied the opportunity to participate or to receive GI bill benefits. By the fall of 1977, USC projects an increase in administrative costs due to Public Law 94–502 of $150,000 per academic year.

The quality of USC's programs in Systems Management, Education, International Relations and Public Administration is as closely controlled off campus as on. However, because of confusion over student eligibility, enrollments are dropping and plans for several new offerings have been scrapped. The future of USC does not rest on the success or failure of these expansion plans, but unfortunately the future of many current and potential students (veterans and non-veterans) may be at stake. The 85–15 rule may not have caused any immediate center closing, but more than 10 of the 56 centers in the Systems Management Program alone may be forced to close in the near future. This is because the civilian students who now cause the centers to be economically feasible cannot be replaced as they complete their programs.

The confusion in the new GI bill was the biggest single factor that was responsible for a 25 percent drop in enrollments in the USC School of Education Off-Campus Programs in 1976–77, as compared with those in 1975–76. The unfamiliarity in the Veterans Administration or the State Approval Agencies (or the lack of sensitivity therein) to University operations, has resulted in a bureaucratic rigidity that makes it very difficult to open new programs and to serve the military person interested in higher education. The 2-year rule, for example, has prevented a doctoral program in education from opening in Brussels (although the same program has been conducted successfully in West Germany for five years)—thereby preventing many students from furthering their education. The situation at Kwajalein Island is another example of how individuals qualified for V.A. educational benefits are hurt by the new rules. As the new center at Kwajalein could not operate successfully with only active-duty students, as required by the 2-year rule, no one is allowed to use V.A. benefits. Students must pay their own costs even though they are qualified for V.A. benefits. Many other similiar examples could be given.

Boston University in both fall term of 1976 and spring term of 1977 had revenue of about $570,000 from about 1,100 students of which 73 percent were students under the GI bill. About 500 fewer students will be receiving GI benefits because of the elimination of all courses less than two years old, elimination of civilian students from the remainder, and cancellation of courses that would not be financially viable without civilian students. Administrative costs (not including salaries of instructors and other teaching costs) would remain the same (because of costs of phase-outs) and rise to 65 percent of the revenue. Under these cost and income conditions, the University would be forced to discontinue the programs as soon as contracts could be terminated.

Los Angeles Community College started programs at a number of new locations and expanded programs at others between the fall of 1976 and the spring of 1977, as provided for in contracts with the military services. Because of the termination of the power of attorney system for collecting from veteran students, they adopted a deferred payment plan under which veterans pay for the courses when they receive their checks. For the spring terms, they expect to collect not over 75 percent of the funds due and the cost of collection will be about 10 percent of the funds collected. With these high costs, the deferred payment plan is being abandoned. By the fall of 1977, LACC will be terminating some courses affected by the 2-year rule, denying enrollments in others, and closing courses that are not economically viable under these circumstances. By the fall of 1977, their enrollments will be reduced to about one-half of the levels of the spring of 1977, and students receiving veterans benefits will drop to about one-half the students enrolled compared to 61 percent in the fall of 1976. These adjustments will result in a reduction of about 1,200 in the number of veterans served by those programs.

Graduate programs conducted on military bases by the University of Oklahoma produced revenue of $3,163,000 in the spring term of 1977. Of this 10.9 percent was from students receiving veterans benefits. This represented a decline of about $100,000 in revenue from the fall of 1976. During this period revenue from veterans increased from 10.5 percent to 10.9 percent. The University projects no great change in enrollments or veteran participation for the fall of 1977. However, the University is severely affected by changes in administrative costs. The letter of May 2, 1977 from President Sharp to Congressman Steed (copy attached) provides details on the impacts of Public Law 94–502 on administrative costs. It is estimated that these costs will double because of Public Law 94–502. The cost estimate of $46 per enrolled veteran presented to the Committee by the National Association of Concerned Veterans approximates the University of Oklahoma costs.

More important questions than those associated with the financial impact of the Public Law on the education institutions are: "Are the educational programs providing quality education where it may not otherwise be available?"; and "Are deserving students being unfairly hurt by the changes in the law?" We firmly believe that instructions offered by these institutions at off-campus locations does reflect the particular competencies of the institutions and that the requirements and standards of attainment are fully comparable to those demanded in equivalent courses offered on compus. The off-campus degree programs are designed primarily for students who frequently must move because of job changes. Many of these students, especially members of the military services, cannot increase their educational level unless their study can be continued (without loss of credit) at convenient locations.

The 85–15 and 2-year rules will adversely affect the availability of educational programs. While the military population is predominant at most locations, this group alone is insufficient to permit the programs to break even. It is the marginal enrollments of non-veterans of all types that make programs viable at many locations. It seems grossly unfair to deny a qualified veteran his choice of a qualified program or school simply because a certain study center has less than 15 percent non-V.A. funded students.

Question 3. How would the witness deal with the abuses that the 85–15 rule, the 2-year rule, and the standards of progress were designed to prevent? A detailed answer, please, because your professional backgrounds may provide the subcommittee with a new remedial approach.

Answer. *a. Abuses by students*

The newly adopted procedures that abolish prepayment and under which advances provided only to veterans requesting them will be effective in eliminating abuses by veterans. Also, we suggest the adoption of a monthly system of certification by the veteran to the fact that he has been enrolled and is making satisfactory progress.

b. abuses by institutions

Programs offered under contract with the military services are already approved by commanders and supervised by the educational officers of the institutions. These education officials generally are very knowledgeable about the reputation of the school invited to conduct courses. Although screening by DOD education officers might not be available for off-base offerings, quality control is maintained through strict adherence to the principle of independent accreditation and through the aggressive activities on behalf of quality now being pursued by the Council on Postsecondary Accreditation and the regional accrediting associations. Accreditation standards should be strict and closely monitored. We believe these controls offer adequate safeguards. If it is deemed important that a given percentage of students in any particular university's porgrams should not be financially supported by V.A. educational benefits, we suggest that adequate control would be present if the institution's overall population met a percentage figure (35 percent V.A. maximum, for example).

We believe that it is an unnecessary and unreasonable restriction to apply the percentage figure to each branch facility, especially if the same academic programs are offered on the Main Campus. Additional assurances can be provided by requiring that the military services certify that each program on a military base satisfactorily meets the legistimate needs of that military community.

Question 4. What should be the legislative responsibility of the Congress and the administrative responsibility of the V.A. to eliminate student and institutional abuses of the GI bill?

Answer. The legislative responsibility of the Congress should include action to clearly define the veteran's responsibility, to place squarely on the veteran responsibility for fraudulent activity by him and to provide for prosecution and penalties for those veterans who violate the law. Similarly, the law should provide for prosecution of institutions and their officials when they violate the law.

The Congress also should provide procedures to assure institutions that they will receive payment for services rendered when veterans fraudulently cash tuition checks and use the funds for other purposes.

With regard to institutional abuses, Congressional responsibility includes a responsibility to respect the role of educators as judges of educational quality and accrediting associations as industry self-regulatory devices. Congress should provide encouragement and incentives for those accrediting agencies to operate effectively.

The role of the Veterans Administration should be to administer the laws enacted by Congress fairly, impartially, and not excessively.

Question 5. Are there any academic professional organizations which could propose and implement a comprehensive code of procedures to handle the aforementioned abuse? What I am suggesting is a self-policing procedure created by the educational community to deal with these problems.

Answer. With respect to programs on military bases, the educational community has a plan which will be implemented within a few months. Under the plan, at the request of a military service, the Council on Postsecondary Accreditation will send a team of qualified evaluators (including people from several regional accrediting associations) to a military base to review the quality of all educational programs offered at that base and recommend to the military service and the participating institutions action to be taken with respect to deficiencies in those programs. Under this system, the regional accrediting associations from the region in which the base is located and the region or regions in which the institutions have their home campuses will be involved. This procedure will provide a very high level of assurance of quality programs for any veterans participating in educational programs on military bases.

With respect to abuses by veterans it is suggested that the American Association of Collegiate Registrars, an organization that has professional competence in the control of student abuse, be given a major role in monitoring and assisting in the correction of these abuses.

We sincerely appreciate the opportunity to respond to these questions.

Sincerely,

LLOYD H. DAVIS,
Executive Director.

ASHEVILLE-BUNCOMBE TECHNICAL INSTITUTE,
Asheville, N.C., May 31, 1977.

Mr. RONALD M. MOTTL,
Acting Chairman, Subcommittee on Education and Training,
Committee on Veterans' Affairs, Washington, D.C.

DEAR MR. MOTTL: We are pleased to provide responses to the questions posed by Congressman Wylie as requested in your letter of April 28, 1977.

1. As tax-supported institutions the revenue received from veterans represents a very small percentage of the total. Within the North Carolina Community College Systems, revenue from veterans amounts to 1.98 percent of the total; and in the South Carolina Technical Education College System, it amounts to 6 percent of the total.

Tuition in North Carolina is $33 per quarter, and in South Carolina it varies from $60 to $110 per quarter.

2. We wish to respond to this question by addressing ourselves to 85–15, the 2-Year Rule, and the Standards of Progress separately.

A. 85–15

As the 85–15 Rule is now being applied—35 percent veterans within the institution and excluding BEOG and SEOG—the Rule presents no significant financial burden to the majority of our institutions.

B. The 2-year rule

The 2-year, tax-supported institutions which we represent are unaffected by this rule.

C. Standards of progress

It is our understanding that the "Standards of Progress" referred to in this question are the additional provisions contained in 94–502, Section 1674 and 1724. If these provisions are allowed to remain and are implemented, institutions will be required to perform a progress check on each veteran each term as opposed to an annual evaluation. At this time, it is impossible to cite the specific dollar amount of increase in administrative costs, but it is safe to assume that existing costs would be tripled or quadrupled depending upon the school term employed by the institution. Repeal of this section would in no way increase revenue.

We would like to call attention to our testimony which was presented to the Committee on April 19, 1977. We repeatedly expressed support for the Standards of Progress required by Public Law 93–508 and still maintain the position expressed in our testimony that those standards offer a solution without the amendments imposed by 94–502.

3. & 4. In order to specifically identify the problem, we wish to focus attention on the prime conditions which lead to massive abuse. First, if a disreputable veteran enters a reputable institution, he will not be willing to perform as required by that institution and will soon be eliminated. Secondly, if a reputable veteran enrolls in a disreputable school, he will soon withdraw because it will be obvious to him that he is not receiving the quality of education to which he is entitled. In both of these situations, attempts at abuse by either the veteran or the school are self-correcting.

However, our third condition should be the one to receive immediate and forceful attention. This is the disreputable veteran enrolled in a disreputable institution where the veteran is willing to give the school from one hundred to one hundred forty dollars a month in order to obtain the remaining money from his G.I. Bill and have to do nothing to earn it. According to Mr. Andrew Thorton of the VA, only approximately a hundred and fifty schools would be adversely affected by the 85–15 Percent Rule. Therefore we must conclude that most disreputable institutions are in this group. Assuming that most of these one hundred fifty institutions are reputable and do not have veterans as a primary target group, we may logically conclude that those remaining to be dealt with are relatively small in number.

It is our view that recommendations made in our testimony as recorded on April 19, 1977, if implemented, will go far toward solving the problem of abuses as outlined above. Additionally (and to strengthen the State Approved Agency System) we make the following recommendation. The House Committee perhaps in concert with the Senate Committee, appoint an ad-hoc audit committee for schools suspected of being among those identified by category three above. We would suggest that all schools enrolling veterans under the G.I. Bill be required to sign an audit assent statement as a condition for continuance of such enrollment. The statement should include agreement to an unannounced audit at any time other than registration periods.

Such a committee should be empowered to bring about the disapproval of schools found in violation. We feel that after a few audits which result in withdrawal of approval become known within the educational community, the remaining guilty parties will immediately begin to police themselves.

We recommend that this committee might include congressmen, committee staff personnel, and educators who are knowledgeable about veterans' affairs and the potential for abuse at the institutional level.

5. To our knowledge, there are no professional organizations, associations or accrediting agencies that have the capacity to police the entire educational community. We would, however, support the formation of a group of professonal educators from the field whose purpose would be to advise the Veterans Administration in the preparation of the DVB Circulars which are used to implement the law. Among other considerations, this group would have input into timeliness and overall impact of any circular prior to its release.

If we can assist you further in the effort to stop abuses of the GI. Bill, we will be happy to do so.

Sincerely yours,

JACK DAVIS,
Vice President, Student Services.

Mr. FULTON. Mr. Chairman.

Mr. MOTTL. The chair will recognize you, Mr. Fulton, in just 1 second, if you don't mind.

I would just like to bring this one fact to the attention of Chancellor Kibbee and President Horn. If you don't have a veterans' enrollment over 35 percent, you are exempted from the—or you can get the waiver on the 85–15.

Mr. KIBBEE. That's right, but that is a temporary waiver and it seems to me that that is something, if it is reasonable, should be incorporated in the law. It is a judgmental matter on the part of the VA.

Mr. MOTTL. So 95 percent of the schools really are not bothered by with the 85–15.

Mr. KIBBEE. Until the waiver runs out. I believe it is in 1977—June.

Mr. MOTTL. OK, we will recognize for response, Mr. Fulton, then we will go on to Father Cornell.

Mr. FULTON. Mr. Chairman, as counsel to an accrediting agency and as a member of this panel, I have to note for the record my concern that one of the witnesses has made three references to regional accreditation.

I don't know whether that is intentional or just by happenstance, but I cannot remain silent on that. I hope that if the committee does take into account the greater role for accreditation, it will not draw the invidious distinction between regional accreditation and other institutional accrediting activities, and I hope any decision by the committee will be based on further information and not just a mere passing reference to so-called regional accreditation.

Mr. MOTTL. Thank you, Mr. Fulton. We will now hear from the gentleman from Wisconsin, Father Cornell.

Mr. Cornell. Thank you, Mr. Chairman. I have three very short questions.

Mr. Byrd, can I properly conclude from what you stated that you feel that the VCIP program on our college campuses is not doing an adequate job in helping the veterans?

Mr. Byrd. The VCIP program on college campuses, sir, is being funded at the 8-percent level, and it has been funded at the 8-percent level—well, it has been funded at much less than the requested level from the inception.

It is impossible to carry out the necessary counseling and the necessary programs that are needed when it is funded that way.

The administration, I might add, never supported the program until this last session, and I believe HEW backed it and said that it was a successful program. This is the first time that that has ever happened.

Mr. Cornell. Well, we have had one problem, of course, lack of cooperation between the Veterans Administration and the Office of Education.

Mr. Wylie. That is a recommendation that I put in my statement.

Mr. Cornell. I see. Mr. Busbee, do I gather from your statement, that you endorse the reinstatement of monthly certification just for the vocational institutions. Is that correct?

Mr. Busbee. For all of them.

Mr. Cornell. For all of them?

Mr. Busbee. Yes.

Mr. Cornell. How would you react to that suggestion, Chancellor Kibbee?

Mr. Kibbee. I don't have any objection to the idea that there should be a certification process involved. I think the idea of being able to correct abuses in legitimate ways is perfectly right. I think that the problem that we have is, for example, the question of attendance. We don't take attendance in our university except for very special courses where students are at the remedial end of our program. I don't know of many institutions anymore that do. So we can't react in the normal ways that might have been true 4 years ago. I think there should be a certification process built into the system, but it should be one that can be reasonably done without overburdening the institutions with a deluge of paperwork.

Mr. Cornell. Then you agree on a special type of certification program, just for the veterans' program? Is that right?

Mr. Kibbee. Sure.

Mr. Cornell. In other words, you do not agree with the statement made earlier criticizing the satisfactory standards of progress? You believe that these standards should not be made by the Veterans Administration, but be left to the professional agency?

Mr. Kibbee. It should be left to the professional agency.

Mr. Cornell. But then we have the problem—a very practical problem—stated so many times, that if we have a system such as the one at the educational institution where I taught, it would be at the end of the semester when you would find out the lack of satisfactory progress.

Mr. Kibbee. Well, I don't think you can deal with satisfactory progress on a month-to-month basis. It seems to me you can only deal with that on a semester basis. I was talking about attendance.

Mr. CORNELL. I see. Then you have the overpayment problem.

Mr. KIBBEE. Well, after all, you can't go back and say that because you didn't make satisfactory progress in this one semester you just completed, you therefore have to go back and repay money. There is no way you can predict ahead of time whether a student is going to make satisfactory progress.

Mr. CORNELL. Well, of course, I was kind of tying the two together. It is possible for a student to miss a lot of classes and still make satisfactory progress.

Mr. KIBBEE. That is correct.

Mr. MOTTL. Thank you very much. Time will have to be concluded for the subcommittee.

Mr. HORN. Mr. Chairman, could I add one comment, please.

Mr. MOTTL. Yes.

Mr. HORN. On your satisfactory progress. One analogy might be the National Collegiate Athletic Association—their eligibility requirements. The student athlete has to complete 24 units between the seasons of competition.

Now, I would say that it is physically impossible for American universities, as I mentioned in my formal statement, to grant satisfactory progress checks.

If we have to, we can start furnishing—and that will cost us money and difficulty—transcripts to the VA. I would suggest that Congress and the VA decide what they think satisfactory progress is. Let those ground rules go out, but realize that we have a different type of in-and-out student in all American higher education, except the more traditional liberal arts campuses, where students, as I said earlier, work sometimes full time, married, et cetera.

We have no way to measure satisfactory progress with the nonveteran student let alone the veteran student, but if the VA and Congress want to put on that, they could then catch it on a yearly basis if they asked the universities to furnish them the transcripts and the question would be how many units have you successfully completed.

But that should be the VA checking that more than the universities unless they want to pay that cost to the universities.

Mr. MOTTL. Thank you very much, gentlemen, for your testimony here this morning. Again, may I stress, if you would like to come back tomorrow, if you will let Mr. Stover here know, we will put you on the agenda, or for some other time in the future.

We will admit for the record all other statements which have been submitted to us.

[The documents referred to follow:]

CENTRAL MICHIGAN UNIVERSITY,
OFFICE OF THE PRESIDENT,
Mount Pleasant, Mich., April 15, 1977.

CHAIRMAN,
House Committee on Veterans' Affairs,
Cannon Building, Washington, D.C.

Attention: Francis W. Stover.

DEAR MR. CHAIRMAN: The following testimony is submitted with the request that it be considered in the hearings of the Subcommittee on Education and Training on Public Law 94-502.

We fully understand the intentions of Congress when it passed PL 94-502, and we recognize the necessity for curbing abuses in the veterans' education benefits program. However, if certain provisions are allowed to remain, educational opportunities for military personnel and veterans will be severely restricted. Undoubtedly, there are better ways of eliminating the problems without penalizing the conscientious veteran and those accredited institutions that deliver academic programs of high quality.

85–15 RULE

It is our belief that the 85–15 rule:

1. denies the veterans the use of their earned benefits for the purpose of participating in many worthwhile educational programs,
2. restricts a student, because he/she is a veteran, from enrolling in a course or an institution which he/she feels may best meet his/her educational objectives,
3. establishes an arbitrary enrollment quota, which encroaches upon academic freedom, as a criterion for program quality,
4. imposes extensive record-keeping upon the institutions, and
5. imposes extremely high financial burdens upon institutions which, by necessity, will be passed on to students and taxpayers.

Further, it is not reasonable to expect a program to be maintained for the initial two years of its operation allowing only military personnel to participate and then immediately upon the exhaustion of the two year period expect no more than eighty-five percent of the participants to be receiving veterans' benefits.

We strongly urge a complete waiver of the 85–15 Rule for regionally accredited non-profit institutions. We believe that the accreditation process will monitor and control the level of quality of programs and that it is unnecessary for the V.A. to try to control quality by issuing arbitrary quotas.

UNSATISFACTORY PROGRESS

Our major concern regarding this provision is the fact that it does not take into consideration the student who is taking only one class at a time. The recordkeeping and reporting systems being required are not at all consistent with present day educational practices and philosophy as we tend to encourage the concept of life-long learning for adults.

2-YEAR RULE

We believe it is unnecessary to apply the Two-Year Rule to established accredited institutions since accreditation resolves problems of quality. Further, an arbitrary standard of time is not a satisfactory substitute for quality. Other concerns we have with the Two-Year Rule include:

1. the Two-Year Rule is discriminatory against the veteran in that he/she may not participate in a program if that program has not been in operation at a location for a period of two years even though that program is the same or similar to one that exists on the campus,
2. the rule restricts the student from enrolling in a course or institution that would meet his/her needs, and
3. the rule discourages innovation and removes institutional capacity for responding to societal needs.

We strongly encourage the complete waiver of the Two-Year Rule for regionally accredited non-profit institutions of higher education.

We are fully aware that on a few rare occasions regionally accredited institutions have been guilty of violation of good educational practice. But on the whole, the accrediting process has served higher education well for many decades.

Moreover, in recent years the regional accrediting agencies have been sensitive to the special care required in accrediting external degree programs. For example, at its recent accreditation review by the North Central Association Central Michigan University's external degree program was thoroughly reviewed prior to institutional approval.

Thank you for the opportunity to share our concerns with you. We trust that you will take them into consideration.

Sincerely,

HAROLD ABEL, *President.*

North Carolina State University,
Office of the Chancellor,
Raleigh, N.C., March 14, 1977.

Hon. William G. Hefner,
U.S. Congress,
Longworth Building, Washington, D.C.

Dear Mr. Hefner: Attached is a copy of North Carolina State University's response to policies and procedures published by the Veterans Administration pursuant to Public Law 94–502, The Veterans' Education and Assistance Act of 1976. Comment was solicited in the Federal Register of February 9, 1977.

As a member of the Subcommitte on Education and Training of the Committee on Veterans' Affairs you are in a position to benefit veterans, institutions and the federal government by urging the Veterans Administration to consider the approach suggested in our response. Specifically, we urge that the Veterans Administration:

(1) Revise its 85–15 ratio policy so that all institutions enrolling no more than 35% of veterans be granted an automatic waiver unless the VA determines that it has grounds to require additional information. The purpose of this proposal is to remove the reporting burden from the 90 percent of the institutions that do comply with this law. We believe that such an approach is consistent with the language of Section 205 of the law which states, "The Administrator may waive the requirements of this subsection, in whole or on part, if the Administration determines it to be in the interest of the eligible veteran and the federal government."

(2) Accept institutional definitions of courses that satisfy or do not satisfy graduation requirements rather than attempt to define such courses by VA regulations. Such an approach would remove the VA from the details of institutional policy making and allow them to focus on problems and exceptions.

(3) Follow institutional definitions of what constitutes satisfactory progress. This approach would remove the VA from the area of subjective academic judgment which properly belongs on campuses. Faculty members are better informed than VA employees about what constitutes satisfactory progress at an institution.

In all of our suggestions we have been guided by the premise that all involved are best served if the Federal agency does not inject itself into areas of decision-making that can best be handled by other institutions. The burden of the law should fall on those who break it, not on those who comply.

In the final analysis, we strongly urge Congress to eliminate the 85–15 requirement. As long as it exists, we suggest the approach outlined above.

Sincerely,

Joab L. Thomas, *Chancellor.*

North Carolina State University,
Office of the Chancellor,
Raleigh, N.C., March 9, 1977.

Administrator of Veteran's Affairs (271 A),
Veteran's Administration,
Washington, D.C.

Re: Comment on policies and procedures related to the provisions of Public Law 94–502.

Dear Sir: North Carolina State University welcomes the opportunity provided by the Veteran's Administration to comment on the policies and procedures proposed to implement Public Law 94–502 as published in the Federal Register for Wednesday, February 9, 1977. We commend the Veteran's Administration for its action in seeking public comment on its policies and procedures and we anticipate that the Veteran's Administration has begun a system of rule making whereby it can take advantage of the experience of institutions of higher learning by regularly seeking comment prior to implementation of policies and procedures.

Our approach in formulating comments has been to suggest ways in which the Veteran's Administration can comply with the law and yet avoid becoming directly involved in the administration and operation of universities. We believe that as laws are passed and regulations developed, the Veteran's Administration should avoid the approach that has often caused so much trouble in the past, that is an attempt to write regulations that cover all situations that may arise under any circumstances. We suggest that the Veteran's Administration could be more effective if it approached regulation writing with the recognition that 90 percent of the institutions in this nation comply in good faith with the spirit and the letter of the law. Instead of writing regulations that subject this 90 percent to undue burdens, the Veteran's Administration should write regulations that allow them to exempt the complying institutions from the burdens of unnecessary record keeping and reporting and allow the Veteran's Administration to focus on those institutions which do have problems. Taking this approach, the Veteran's Administration can accomplish several things. It can reduce the necessity for overly complex regulations. It can reduce its workload devoted to routine matters. It can reduce the burden on institutions which do abide by the law, and further, it can focus its attention and enforcement activities on those institutions which violate the law. Such an approach seems consistent with that idea espoused by President Carter in his promise to the American people that he is going to reduce the burden and unnecessary complexity of Federal regulations. We trust that we can work together to develop an effective set of regulations that comply with these purposes.

Our comments below offer suggestions of instances in which the Veteran's Administration can, in fact, both comply with the law and reduce the burden upon institutions. Such action would be consistent with the purposes of PL 94-502 which are, among others, to improve the educational assistance to veterans and strengthen the administration of the program.

EXTENDED 85-15 PERCENT RATIO REQUIREMENTS

The Veteran's Administration is to be congratulated for the wisdom it used in developing a temporary waiver approach to the 85-15 requirement. After reading the law, and after reviewing the administrative requirements and burdens imposed by the propsed policies and procedures, it is our conclusion that the language of the law does not require the regulations to be written in their present form and that more lenient guidelines can be developed and still remain within the statute. Our reasoning in reaching this conclusion is as follows:

First, underlying the policy of aid to veterans is a philosophy that aid to veterans should not result in control of institutions by agencies of the United States Government. This concept is stated in 38 U.S.C. 1782 as follows: "No department, agency, or officer of the United States, in carrying out this chapter shall exercise any supervision or control, whatsoever, over any State approving agency, or State educational agency, or any educational institution." This language clearly sets out limitations within which the Veteran's Administration must operate. The present approach to the 85-15 ratio requirements, while more lenient than the approach initially proposed by the Veteran's Administration, is not sufficiently flexible to remove the Veteran's Administration from decisions which are basically operational decisions, and which should be left to individual institutions. Indeed, such decisions are required by law to be made by individual institutions. It is our contention that the language of PL 94-502 and 38 U.S.C. 1782 are in conflict. Because of this conflict, we believe that the proper course for the Veteran's Administration to pursue at this point is that of deferring action until its alternatives are clarified.

Second, we believe that the language and purpose of PL 94-502 allows the Veteran's Administration to be more flexible. We quote the pertinent part of Section 205 because it states a proposition that merits emphasis. "The administrator may waive the requirements of this subsection, in whole or in part, if the administrator determines it to be in the interest of the eligible veteran and the Federal government." That language indicates that Congress did not intend to deprive otherwise eligible veterans of benefits by the passage of PL 94-502. Yet, following the approach suggested by the Veteran's Administration may directly result in such a decrease in benefits to veterans through no fault of the veteran. The policies created to implement the statute create an arbitrary and capricious category which may indeed result in denying fair treatment to veterans when compared to other students enrolled at the university.

Third, veterans could be denied enrollment in courses by virtue of the fact that other students who receive Federal assistance in some form are also enrolled in the course. This is an absurd situation. The rights of veterans are thereby determined by the actions of other people who have no relation whatsoever to the veterans. These other people, in fact, have only a tenuous connection at best to the Veteran's Administration. It does not appear that with PL 94-502 Congress intended to consolidate control over all of Federal aid to students and place such control in the Veteran's Administration. Yet, the consequences of the approach taken by the Veteran's Administration in this requirement is to, in essence, tie all aid to that received from the Veteran's Administration. This approach cannot be considered to be in the best interest of the Federal government, and thus, the approach taken by the Veteran's Administration is neither in the best interest of the veteran nor the Federal government.

We propose that the Veteran's Administration take a different approach to the problem created by the language in PL 94-502. Instead of making the inclusion of other forms of Federal aid the rule, we suggest that the Veteran's Administration promulgate a policy which sets forth that only the percentage of veterans shall be counted unless the Veteran's Administration has reason to believe that it is not in the interest of the veteran or the Federal government to waive the counting of grants from other agencies. The advantage of such an approach is that it would enable the Veteran's Administration to crack down on those institutions which abuse the present program without requiring all other institutions to go through the burden of the reporting and computation necessary under the present proposed policies. In short, the Veteran's Administration could simply waive the 85–15 percent computations for institutions which certify that 35 percent or less of their enrollment receives Veteran's Administration educational assistance, unless the Veteran's Administration has reason to conclude that separate determinations and computation of other aid should be included.

Finally, we believe that the record keeping requirement imposed by the 85–15 percent ratio is excessive and is a burden on institutions which it is imposed arbitrarily and without any corresponding benefit to the institutions. Further, we believe that such record keeping opens up a possibility of abuse by creating a separate classification of students in record systems which may, in effect, deny them equal treatment by State institutions, thus running the risk of violating the Fourteenth Amendment to the United States Constitution.

PROHIBITION OF EDUCATIONAL ASSISTANCE PAYMENTS FOR COURSES NOT COUNTED TO SATISFY GRADUATION REQUIREMENTS

We recommend an additional section be added, waiving the requirement of this section for four year, non-profit educational institutions providing that it is determined that students are taking credit courses consistent with the academic policies of each institution. We agree that auditing courses should not make an individual eligible for assistance; but because of the varieties of academic policies concerning credit, we disagree with the approach taken by the Veteran's Administration.

Determining when grades legitimately are not counted and when they are non-punitive grades is complicated immensely by the varying faculty grading policies that exist at institutions of higher learning. It is probably true that in no instance are there any two institutions which have exactly the same grading policies. Thus, it is almost impossible to write a policy which can encompass the varieties of situations that may arise in determining whether or not a grade is counted towards graduation. Rather than take on this Herculean task, the Veteran's Administration should defer to the collective academic judgment of institutions and require only that the institutional policy be followed in determining whether a student qualifies for educational assistance payments. This approach would get the Veteran's Administration out of the business of trying to write regulations that can be interpreted consistently with the many different institutional policies and allow the Veteran's Administration to deal with the exceptions as they arise. The proposed approach is another example of a method of reducing the complexity of Federal regulations and at the same time allowing the Veteran's Administration sufficient flexibility to enforce the law.

UNSATISFACTORY PROGRESS

Concerning this issue, which has been debated widely in the past, we believe it is only necessary for us to state one more time that the key factor in determining "unsatisfactory progress" is quite often not a numerical computation, but rather a judgment based on an evaluation by the faculty of the student's capabilities, attitude, and past work. No matter how talented a Veteran's Administration counselor may be, the counselor will find it impossible to determine the context in which a student is working. Nor will a counselor be likely to be familiar enough with an institution's academic policies and curricula requirements so that he can make an informed judgment as to the wisdom of taking one course of action instead of another. Consequently, we believe that the determination of "mitigating circumstances" must allow a considerable amount of flexibility on the part of the institution. This concept is recognized in the proposed policy concerning transfer of program. However, we believe that it needs to be stated as a primary tenet of the policies concerning unsatisfactory progress. Once again, it appears that the Veteran's Administration could eliminate many unnecessary problems by adding a statement allowing the Administrator and State approval agencies to accept institutional definitions of "satisfactory progress" where it is clear that the institution's policy is consistent with the spirit of the law.

In conclusion, we should like to again thank the Veteran's Administration for allowing us to comment.

Sincerely,

CLAUSTON L. JENKINS,
Assistant to the Chancellor.

NORTHWOOD INSTITUTE,
Midland, Mich., February 21, 1977.

Congressman RAY ROBERTS,
Chairman, House Committee on Veterans Affairs, Congress of the United States, House of Representatives, Washington, D.C.

DEAR MR. ROBERTS: At Congressman Cederberg's suggestion, I am writing you to explain the impact of Public Law 94–502 on Northwood Institute. It has affected the operation of our Radcliff, Kentucky, Extension Center adversely and caused denial of VA benefits to veterans admitted to the Radcliff Program in November and December 1976.

Northwood Institute, Midland, Michigan, fully accredited by the North Central Association of Secondary Schools and Colleges, operates the Radcliff Extension Center under the External Plan of Study, a program of the Michigan campus. Northwood specializes in management education and offers various management associate degree programs as well as the Bachelor of Business Administration degree. As a result of our work at Selfridge Air National Guard Base, Michigan, a group of veterans and active military invited us to offer our highly structured associate degree in business management in special evening time modules to facilitate their career advancements and transitions.

Northwood Institute gained State Agency Approval and VA approval to offer the Associate Degree in Business Management at Radcliff, Kentucky, in late 1975 and early 1976 after considerable planning, effort and expense on the part of the College. Since then, Northwood Institute has maintained a top quality program at Radcliff, has established an office, and provides counseling and other services to the students enrolled at the Radcliff Extension Center. Our quality program is attracting new students, but now the two-year rule has curtailed the opportunities we can provide to active and retired military personnel. We had enrolled new students prior to being notified of the impact of this legislation. Northwood was notified by the Louisville Regional VA office on January 3, 1977, that Northwood's two-year rule compliance was being reviewed by the Kentucky State Approval Agency. Those students enrolled in November and December for classes beginning February 1 are now being denied their VA benefits since we were notified on Feburary 4, 1977, that we did not meet the two-year rule of operation and no new enrollees would be allowed VA benefits.

Public Law 94–502 has consequences which are clearly discriminatory to private, fully accredited colleges. It also denies a basic freedom of choice on the part of the active and retired military personnel to exercise their rights to benefits through accredited educational sources of their choosing.

I urge that the House Committee on Veterans Affairs recommend revisions to redress the grievances of Public Law 94–502.

Sincerely,

THOMAS J. BROWN,
Executive Vice President.

Mercer County Community College,
Office of the President,
Trenton, N.J., April 25, 1977

Hon. Ray Roberts,
Chairman, Veterans' Affairs Committee,
Cannon House Office Building, Washington, D.C.

Dear Congressman Roberts: After correspondence with Congressman Frank Thompson concerning P.L. 94–502, he suggested we contact you directly to indicate our displeasure with certain aspects of the law. Enclosed are five copies of this letter for the record.

Public Law 94–502 was reported out of the Senate Veterans Committee without public hearings, and with little discussion in either the House or Senate it was passed unexpectedly in the middle of the last night of a Congressional session. Opposition by those of us in education did not receive Congressional attention in large part because of the speed with which the bill passed. We take exception with the manner in which the bill was passed and would like our opposition to DVB Circular 20–76–84, Appendixes H, M, and O noted and amendments deleting these sections initiated and passed.

Mercer County Community College feels that certain provisions of the law, especially Appendixes H, M, and O attack institutional credibility, encroach on institutional grading and progress policies, are discriminatory against veterans, and will greatly increase our clerical workload.

Mercer County Community College is accredited by the Middle States Association of Colleges and Secondary Schools, the Department of Higher Education of the State of New Jersey, and approved for veterans training by the State Approving Agency. In addition, the College reports to a Board of Trustees and is directly responsible to the Board of Chosen Freeholders and the citizens of Mercer County. The College is responsible to these organizations, not the Veterans Administration. The College does not feel it is the Veterans Administration's right or responsibility to dictate grading policies, to dictate content of the College catalog, or to dictate the allowable length of an add/drop period which the current law does. We strongly protest.

Mercer County Community College awaits the favorable resolution of these problems. Please contact my office if further information is required.

Sincerely yours,

John P. Hanley, *President.*

[From Change, February, 1977]

Viewpoint 1: The Disgrace of Military Base Programs

(By Kenneth H. Ashworth and William C. Lindley)

Many college and university programs offered on military bases are so poor that they would be classified as diploma mills were they subject to close educational scrutiny. One reason for this deplorable situation is that many institutions that care about quality have stayed away from all continuing adult education and particularly from education on military bases. Consequently, degree programs by the hundreds are currently taught far from parent campuses by schools less concerned with quality than with income.

Since no central monitoring exists of off-campus programs on bases, the number of participating institutions has never been calculated. But of the hundreds involved, the following are a few examples of schools, without any judgment of quality implied, that offer courses and degrees—undergraduate through PhD—at great distance, sometimes hundreds or even thousands of miles from their home campuses: the University of California, Webster College, the University of Oklahoma, Utah University, Golden Gate University, the University of Maryland, the University of Omaha, Columbia College, Southern Illinois University, William Carey College, Troy State University, Pepperdine College, George Washington University, Saint Leo College, the University of Albuquerque, Central Texas Junior College, the University of Northern Colorado, the University of Southern California.

For the escalating numbers of colleges offering such programs, the motivation is financial. Universities with established faculties, declining enrollments, and insufficient resources need students wherever they can find them. And the military bases offer new territories with large concentrations of prospective students. Since the federal government pays most of the cost, such programs are a convenient source of quick income. With federal money as bait, some schools then add extra fees. At least one accepts government funds, then charges the students "evaluation fees" of from $50 to $200 for one to twelve hours of work accepted for transfer from military schools or work experience. Moreover, many public institutions claim on-base teaching for resident credit, which allows them additional state funds.

Though again there are no overall figures, the number of students enrolled on bases around the country probably runs into six figures. Institutions are reluctant to say just how much money they bring in. However, one university outside Texas has estimated that it will take in $1.75 million on five military installations within Texas next year. One small private college operating on over a dozen bases in eight states is taking in over $700,000 a year. The school was facing financial collapse and sharp enrollment declines until it embarked on these programs three years ago. They involve no faculty from the campus.

The manner in which GI benefits are paid encourages schools to keep the cost of their programs high. Since military students are on the government payroll, they do not receive a fixed monthly stipend. Instead, the GI benefits pay the full cost of tuition and fees up to $80 per credit hour. This works against the student's best interests, since the higher the cost of the courses, the more likely he is to use his GI benefits. If he were given the chance to enter a low-cost public university program instead, he could perhaps afford to pay his own way and save his GI Bill.

On the military side, the motive spawning such programs is career advancement. Higher education enhances an officer's chances for promotion; and an officer soon learns that when military promotion boards meet to review thousands of forms, they are not discriminating about types or quality of degrees. Those who hold master's degrees in many cases go ahead of those who do not, regardless of where or how the degrees were obtained. Thus strong pressure is often exerted to allow a program to operate, regardless of its substance.

Base officers know that they are rated by their commanders purely on the basis of numbers: how many new courses are offered, how many students are enrolled. The commanders in turn are evaluated by superiors who are also impressed by numbers. In such a system, content and academic rigor are ignored. Many of the "programs" are that in name only. In some cases, for example:

Thesis and dissertation requirements can be met by on-the-job projects and work assignments alone.

Between one third and one half of the credit hours can be transferred from military school courses, military experiences, or work projects.

Courses meet one night a week for eight weeks only, or even less frequently.

No residence requirements are imposed; all work can be done on base.

Research is not required; library assignments are not made; textbooks constitute the most rigorous reading assignments.

No minimum grade point averages or Graduate Record Examination scores are required.

Local faculty, often military personnel, are required to teach the courses. Their qualifications are not reviewed by the home campus, and, except in unusual circumstances, they do not match the requirements for teaching on a college faculty.

It's the low cost of the programs that keeps students enrolled in spite of the academic shortcomings and the extra fees. Most charges are paid for them under military education assistance programs or by the Veterans Administration. The real cost to the student in choosing inferior programs over good ones becomes obvious only later, when the ex-serviceman applies for a job in the increasingly competitive civilian market only to find that the degree is nothing but a worthless paper certificate for which he has used up all or part of his GI benefits.

The old, rueful remark, "With this purple heart and a dime I can get a cup of coffee anywhere," must not be permitted to extend to educational credentials earned while in the service. When the military want quality education, they know how to find it. If they have a need for a specially trained individual, they send him to an institution that they judge will do the job best. In the case of on-base education though, they have decentralized decision making to the separate bases. And, since bases are federal property, they are off bounds to the state agencies that might otherwise monitor the caliber of out-of-state programs.

Nonetheless, there are steps that could be taken by the military, the colleges, and external organizations that might begin to reverse the trend.

One move that could have great impact would be to discontinue questionable programs offered by distant schools and attempt instead to develop programs with nearby institutions. State agencies of higher education could certainly encourage cooperation within their states. This would give students access to facilities, such as libraries and laboratories, that they do not now have and would open the option of requiring some course work to be done on campus. In developing suitable programs, it would be necessary to evaluate each student's level when he enters and to bear in mind that many programs need to accommodate an older-than-average student body. Career counseling should accompany instruction and guidance.

The military organizations themselves can ensure that quality prevails over quantity by screening potential programs at a central source. Such screening is now usually perfunctory. The resources of other educational units in the services could be employed for this purpose. For example, the Air Force might use the U.S. Institute of Technology at Wright Patterson. To improve existing programs, outside educators from each service might offer their suggestions. In addition, military supervisors and civilians who employ graduates should evaluate them. Such evaluations could be done separately by the different groups or together in advisory panels reporting to base education officers. And base education officers themselves should be empowered to say "no" to poor programs and make it stick.

Some plans are already under way to help. In 1975 the Veterans Administration initiated a policy requiring a more stringent approval procedure. No longer will approval of the parent institution automatically be extended to distant branch operations. Instead, these distant programs will have to be approved by the appropriate agency in the state where they are offered it they want VA funding. To date the new procedure focuses more on record keeping than quality control. However, it sets up the mechanisms for the VA to address questions of course content, faculty qualifications, adequacy of facilities, and other support services. Some base education officers interpret the new policy as an encouraging sign of the VA's interest in quality. One hopes this will prove true.

Those state agencies that have authority over courses eligible for VA support should reserve their approval for deserving programs. Other state agencies, as a condition for authorizing state funds for on-base credit hours, can and should demand high quality; otherwise they should withhold the funds or the authorization to teach the courses. The regional accrediting agencies in turn can impose regulations: prior approval by the agency, subsequent periodic visits, and other means of evaluation. They should not assume, as some now do, that the parent institutions are monitoring the offerings. Unfortunately, the greatest abuse occurs among the schools operating on bases outside the region in which they are accredited; such cases appear to be beyond the jurisdiction of any accrediting agency.

The bulwark for protection of quality can be built from effective cooperation among the military services at the top, the Veterans Administration, the base education officers, the state agencies responsible for coordination of higher education, the accrediting agencies, and the colleges and universities Any one of these or all together can start to reverse the declining quality of what passes for higher education on military bases.

[From The Stars and Stripes, Vol. 35, No. 361, Apr. 15, 1977]

Retired General Assails College Programs

ON-BASE EDUCATION CALLED 'A FRAUD'

(By John Hart, Washington bureau chief)

College Park, Md. (S&S)—Many college and university programs offered at military bases are a "disgrace," retired Air Force Brig. Gen. William C. Lindley has charged.

"The permissive romance between higher education and the Armed Forces has got to cease," said Lindley, the dean of continuing education at the University of Texas at San Antonio.

Lindley spoke during a panel discussion at the seventh worldwide Armed Services Education Conference Tuesday at the University of Maryland here.

More than 600 military and civilian educators attended the conference, jointly sponsored by the Defense Department and the University of Maryland's University College.

Lindley and Kenneth H. Ashworth, Texas commissioner of higher education, co-authored a magazine article highly critical of military base education programs. Lindley defended the article during the panel discussion.

The article, titled "The Disgrace of Military Base Programs," appeared in the February issue of "Change," a magazine for educators.

"I feel the Armed Forces and higher education are perpetrating a fraud on American society," said Lindley.

He said that many college and university programs on bases "are so poor that they would be classified as diploma mills were they subject to close education scrutiny."

He said he is not opposed to continued education programs for servicemen on the bases, but is against the absence of quality, he said.

Lindley retired in 1966. At that time he was serving as chief of the Education Division of the Air Force.

Lindley challenged the academic standards of the on-base programs as granting college credit too liberally.

"One reason for this deplorable situation," according to Lindley and Ashworth, is that "no central monitoring of off-campus programs on military bases" exists.

They suggested that "quality can be built from effective cooperation" among the military services, the Veterans Administration, base education officers, the state agencies responsible for coordination of higher education, the accrediting agencies and the colleges and universities.

"Any one of these, or all together, can start to reverse the declining quality of what passes for higher education on military bases," the authors said.

Commenting on the article, an Army general said that it is a reflection of a "long-standing philosophical difference between conservative and liberal educational institutions."

He admitted there have been "isolated instances" in which institutions have failed to provide supervision of their programs on the bases.

According to a Pentagon official, more than 1,000 universities and colleges offer programs on military bases.

Lindley told the panel that the article was based upon an informal study of about 15 bases. He did not name the bases or say where they were located. Officials of the American Council on Education (ACE), commenting on the Lindley-Ashworth article, said:

"The authors do a grave disservice to both the military and post-secondary education with their unsubstantiated claims regarding the quality of civilian educational programs offered on military bases. They ignore the complexities involved in providing for the unique educational needs of military personnel and instead put forth a number of unwarranted assertions.

"Admittedly, there are problems of quality control with some on-base programs." But the ACE officials said the article "does a great injustice to the many fine programs being offered on military bases.

"It is unfortunate that the problems that do exist and the efforts being taken to overcome them were not presented in a balanced and informed manner."

LUZERNE COUNTY COMMUNITY COLLEGE,
Nanticoke, Pa., January 17, 1977.

Hon. DANIEL J. FLOOD,
*House of Representatives,
Cannon Building, Washington, D.C.*

DEAR CONGRESSMAN FLOOD: I am not certain whether some sections of the new GI bill represent a simple solution to a complex problem or a complex solution to a simple problem. It's the wrong solution!

One provision of the new law witholds educational benefits from veterans who are enrolled in programs in which 85% of the participants are veterans or other students receiving federal funding not requiring repayment such as basic and supplemental grants.

Another section of the new law provides that a veteran cannot be certified for benefits when he is enrolled in a program which has not been in operation at that site for at least *two* years.

It appears that new legislation is aimed at curbing the activities of "diploma mills" which specialize in attracting veterans eligible for educational benefits but in some cases do not require attendance at classes or deliver an inferior educational product. In some cases, veterans enroll only to collect their subsistence allowance and the school collects for courses that are never taught.

As I see it, the so-called "85–15" rule discriminates against veterans since it does not affect students enrolled in the same course who are receiving federal aid in the form of a grant or gift. The restriction is imposed on veterans even though they earned their educational benefits as partial compensation for their military service, whereas other students receive and can use federal funds by virtue of low family income.

Federal dollars are federal dollars and it doesn't make much sense to withhold them from one class or recipients enrolled in a course while allowing another class to use them.

The two-year rule appears to be an arbitrary standard which substitutes time for quality. It can discourage innovation and expansion on the part of educational institutions. It also can restrict a student, because he is a veteran, from enrolling in a course or an institution which he feels may best suit his needs.

I recognize the need for curbing abuses in the veterans education benefits program. I don't think taxpayers should underwrite participation in sub-standard courses or should subsidize "rip-offs" on the part of veterans or institutions.

There are ways to eliminate the cheats without penalizing the conscientious veteran and bona fide institutions which deliver a quality product.

I would appreciate your kind attention to any move by Congress to change this discrimination against the conscientious veteran.

Sincerely,

BYRON L. RINEHIMER, Jr.,
President.

NASH TECHNICAL INSTITUTE,
Rocky Mount, N.C., March 25, 1977.

Hon. L. H. FOUNTAIN,
Congressman, Second District,
Rayburn House Office Building, Washington, D.C.

DEAR REPRESENTATIVE FOUNTAIN: Immediately prior to the adjournment of the 94th Congress, Public Law 94–502 was rather hurriedly passed. Several portions of this bill, known as the Veterans Education And Employment Assistance Act of 1976, have become the subject of controversy, among which we find the so-called 85–15% rule, the two-year rule and standards of progress.

It is my contention that those veterans who have honorably served the needs of our great nation should indeed have the liberty to select and pursue any program of education so desired without any restrictions whatsoever from Congress. Yet, the 85–15% rule can be perceived as the usurpation, on the part of Congress, of the liberties of veterans in this respect without due process of law.

I do not believe that the government should be involved in the administration of our institutions of higher learning whether these be public or private. Yet those portions of P.L. 94–502 which addresses itself to the two-year rule and standards of progress eventually end up affecting virtually every school in the country that enrolls veterans.

Representative Fountain, I urge you to use your influence in bringing about the repeal of these provisions of the law. I would appreciate very much your support of House Bills 3275 and 3440.

Thanking you for your continued support to veterans, I remain,

Sincerely yours,

MCKINLEY J. DAVIS,
Veterans Coordinator.

Enclosure.

[From The Chronicle of Higher Education, Jan. 10, 1977]

COURT DELAYS ENFORCEMENT OF NEW GI BILL RULES

GRANTS SOUTH DAKOTA COLLEGE A TEMPORARY STAY: OPENS POSSIBILITY OF NATIONWIDE POSTPONEMENT

Rapid City, S. Dak.—An order issued by a federal district-court judge here has temporarily restrained the Veterans Administration from enforcing its course-by-course limit on the enrollment of veterans under the new GI Bill.

The rule has been widely opposed on college and university campuses. Higher-education representatives in Washington have told V.A. officials that "most degree-granting institutions would be unable to comply" with the rule.

Although the limit itself might restrict relatively few colleges, the frequent and detailed reports required of all institutions would be an intolerable burden, its critics say.

The law containing the controversial enrollment limit was passed in the final, midnight session of the 94th Congress after little discussion and no public hearing.

The federal-court order apparently does not require an immediate nationwide halt to enforcement of the GI Bill rules, but it opens the possibility of a court-imposed solution or of a delay in enforcement while lobbyists for higher education try to get Congress to change the law.

The temporary restraining order was requested by the National College of Business, a private, non-profit institution here, and by four veterans, on grounds that two regulations under the new GI Bill unconstitutionally deprived them of property rights without due process of law.

One target of their complaint, and of the temporary restraining order, was the enrollment limit called the 85–15 rule. It says that no more than 85 percent of the students in any one course of study can be receiving benefits under the GI Bill, institutional student aid, or federal grants.

The second provision challenged in the South Dakota case is called the two-year rule. It says that a private college cannot offer a course to veterans at a location beyond normal commuting distance of the institution unless the course has been in existence for at least two years. In the case of public institutions, the rule applies to programs offered outside the institution's home state.

TEMPORARY ORDER ISSUED

Judge Andrew W. Bogue, U.S. District Court here, issued a temporary restraining order Dec. 31 against enforcement of either the 85–15 rule or the two-year rule, pending a hearing on the merits of the case.

The judge said in his order that the college and the veterans appeared to have "a substantial likelihood of prevailing on the merits." To deny the temporary restraining order might cause irreparable injury to the college and the students, the order said, but only slight injury to the V.A.

The legal effect of the order is believed to bar enforcement of the V.A. rules only at the National College of Business, but if the restraining order were made permanent following a hearing, it could serve as a legal guideline throughout the U.S.

The V.A. has not yet presented its side of the argument in the case here. A lawyer at V.A. headquarters in Washington said the agency would respond promptly to the legal action.

The National College of Business argued that its investment in facilities and in educational programs for veterans constituted a property right that the challenged rules would take away without the due process of law guaranteed by the Constitution.

The four veterans who joined in the suit argued that they had a property right in earned benefits that the rules deny them without due process.

The college and students also argued that reports required by the 85–15 rule amounted to "labeling each student as to type of aid received," in violation of privacy rights under the Constitution and under the Buckley Amendment, which deals with the privacy of student records.

John W. Hauer, president of the college, said the two-year rule restricted the establishment of courses to meet veterans' special needs.

Nine national organizations representing colleges and universities have asked the V.A. to waive the 85–15 rule in the case of institutions where veterans constitute no more than 35 percent of the total enrollment.

The stated purpose of both challenged rules is to guard against low-quality courses for veterans.

[Western Union Mailgram]

GEORGIA MILITARY COLLEGE,
Milledgeville, Ga., January 24, 1977.

RAY ROBERTS,
U.S. Representative, Chairman for Committee of Veteran Affairs, House of Representatives, Washington, D.C.

I would like to take this opportunity to offer my comments concerning Public Law 94–502, the new GI bill. Since passage, we have had approximately 2 months to study the provisions of this new legislation. I recognize the necessity for continuing to meet this Nations obligations regarding re-adjustment from military service and strongly support the desirability of correcting certain abuses within the VA administered GI bill. I must, nevertheless, inform you that the mythology of the 85–15 percent rule and the 2 year rule has left the educational community in considerable disarray as to just who is receiving the blame for the misdeeds of a few. I might also point out that confusion is not limited to the educator. It runs rapid within the Veterans Administration itself as attested by no less than 3 formal published changes and an indeterminate number of local interpretations.

Despite efforts to make the problem of administration of this law, both palatable and workable, we all seem to have lost sight of the fact that, in the end, it is the veteran himself that will take it "on the chin". The administrative nightmare imposed by the latest change in administrative instructions is, for some of us with high veteran enrollment institutions, no better than the first version. The clerical and administrative requirements are of such a magnitude and require such a departure from the normal workflow that compliance may seriously threaten our ability to serve the student, particularly when you look at the long term manpower and funding impact of this requirement.

I have been made privy to a letter written by Chancellor Simpson of the University System of Georgia to the Regional Office of the Veterans Administration in Atlanta. Among other things, Chancellor Simpson has pointed out that to implement the 85–15 rule would cost the University System of Georgia almost a ½ million dollars. This ½ million dollars would be devoted, not to providing educational programs, but to cure bureaucratic bockkeeping. I know that this is not the intent of the Congress, and I also know that it is the intent of the Congress to insure that quality education is provided in-service military personnel in order that their educational level can be raised. I do believe, however, that the present Veterans Education and Employment Assistance Act of 1976 (PL94–502) failed miserably to meet this objective. Many of the less publicized provisions were conceived in hast and passed in the panic of pre-election adjournment, without adequate provisions for study and testimony regarding the impact of the law on both the veterans/servicemen and the educational institution.

We educators understand the intent of the Congress and in acting this new legislation and applaud it. It is unfortunate, however, that the legislation was enacting by both the House and Senate Veterans Affairs Committee without appropriate consultation with the "field". By "field", I mean, testimony from representative colleges and universities who have been engaged in providing educational program to military personnel on military bases and in communities adjacent there to. It is readily agreed that a number of unethical institutions have taken advantage of the GI bill. They should be eliminated from any participation in VA sponsored programs. This can be done very easily by appropriate VA inspect of programs; it cannot be done by legislation that strangles bonafide educational and training institutions. We know that this latter was not the intent of the Congress.

I also realize that it is easy to criticize, and if one is to criticize, he should offer solutions. I strongly recommend that the Congress look again at the end purpose of federally sponsored educational programs administered to the Veterans Administration and design legislation to promote raising the educational level of the servicemen and veterans rather than pass legislation that, as implemented, strangles the educational interest of the servicemen because it is impossible to meet the implementing instructions. I further recommend that the Congress through the Veterans Affairs Committee of both the House and the Senate, consult extensively with representative colleges and universities who have been engaged in providing educational programs for the armed forces and whose reputation is beyond reproach. Thirdly, I recommend that the Veterans Administration, and the State approval agencies, adopt a vigorous inspection program to insure that VA funds are being expended in support of legitimate educational programs, and that these programs are meeting the requirements of the regional accreditation association in the U.S., and of the State accreditation association. It is in this latter area that we can insure that any "hanky panky under the sheets" is eliminated.

In closing, I would like to strongly urge early convene of the Veterans Affairs Committee or appropriate subcommittee from both chambers of the Congress for the purpose of reviewing the current law. Greater focus on the initial problem of abuse and the active solicitation from educational institutions of their views with regards to how these abuses might be minimized or eliminated should be the purpose of such hearings. I firmly believe that dialogue with those involved in the day to day administration of educational assistance benefits will prove to you and other members of Congress that we can offer constructive and much more realistic solutions to the problems of abuse that lead to the passage of this law.

Respectfully,

Maj. Gen. EUGENE A. SALET, U.S.A. Ret.
President.

WHEATON, ILL.,
March 22, 1977.

Mr. FRANK STOVER,
Senior Staff, House Veterans Affairs Committee, Cannon House Office Building, Washington, D.C.

DEAR MR. STOVER: I and my colleagues from Roosevelt University and Chicago State University enjoyed meeting with you on February 8, 1977. We appreciated sharing with you the operating difficulties of institutions of higher education with respect to Veterans Administration programs. This letter summarizes some of the matters discussed with you and Mr. Fleming. I write this letter as an individual taxpayer and coordinator in veteran affairs, but not as a spokesman for the University of Illinois.

On February 6 through 9, the National Association of Veterans Program Administrators met in Washington for a conference which was to exchange views and understandings of the new Public Law 94-502. This law revised much of the foundations of the educational benefits paid by the VA under the GI Bill. Conference attendees also discussed the means of effecting change to the law and met with several representatives from the House and Senate as well as staff and members of the House and Senate committees on veterans affairs.

Specifically, what the problems with PL 94-502? From a university's perspective, the following apply:

1. The law requires schools to individually track each enrolled student (veteran) as to progress towards his/her degree. Such progress is defined by the VA in such a way as to be different from the standards for all other students at the University. The result is the need for each campus to perform certain credential analysis functions by the campus Veterans Office. Such a function requires timeconsuming and complex procedures which would require the addition of staff.

2. Although the VA states that it cannot establish a school's standards of progress, it does define what standard it will cooperate with; otherwise the school is not allowed to participate in the program to serve veterans, or each institution must certify a veteran's status according to the VA definition of progress towards a degree while the school relates academically to the same student on yet another standard.

3. The VA has provided more work-study contracts for veterans so that these part-time, temporary staff resources can be used by campuses in adjusting to and operating under 94-502. However, such veterans are under the supervision of the Vet Rep On Campus (the VROC program) and are not under the staff direction of the campus. Such employees are not university employees and yet processing errors leading to overpayments would undoubtedly accrue liability to the University, not the VA.

4. Certification procedures and regulations require notification to the VA of enrollment changes for veterans within 30 days of the change. Although this is not a new requirement of 94–502, the language of the law and the enforcement of it by the VA establishes a more rigid posture. Schools find it difficult managing data for complex VA procedures in accurately reporting enrollment changes within the 30 day period. School liability thus results for benefit overpayments.

5. Rigidity of the law and the political environment in which the VA is forced to operate, have distorted the relations between the VA and participating schools. As an example, "willful negligence" has been interpreted by the VA to include most administrative errors, data system collapse, and administrative crises which lead to overpayments and liability. It appears to be assumed that if a school simply fails to report accurately and within 30 days, liability is automatic. Very little regard seems to be granted schools who are striving to live up to the spirit and letter of the law but occasionally fail due to circumstances beyond their control. Should you wish more supporting information in this area we have a perfect example at our own University which demonstrates what we feel is an unfair definition of willful negligence.

6. New administrative burdens have been added to existing ones for participating institutions. These requirements cause increased financial accountability while the reporting fee was increased from a mere $3 to $5 with little examination as to what the true costs are for the schools. Our University spends in excess of $30 per veteran per year. Other studies at other schools place the cost at $100 or more. What is lost in these cost-vs-fee discussions is that the reporting fee does not take into account the "risk factor" of exposing the school to liability claims by the VA when reporting problems arise. One $5 fee exposes the school to thousands of dollars in liability. Five dollars is a poor premium, indeed, for such risks even when ignoring out-of-pocket administrative expenses. The reporting fee should be increased and substantially so.

7. As the VA requirements increase, sophisticated new data systems are needed for schools to effectively participate in the VA programs. However, such systems require large sums of development money and operating expenses. If the VA cannot administer its own programs without transferring the administrative and legal burdens to the institutions, then the schools deserve the respect and financial support in order to accomplish the task adequately in the first place.

Institutions of higher education have a mission to educate the people of this country. We think we have done a creditable job. Various segments of our society require different kinds of education and educational support programming. The VA educational benefits program is such a special support program. The higher education community is committed to serve the needs of all its constituencies, but there must be a realistic appraisal of what resources are needed to do the job. If the VA's mandate to serve veterans is one which Congress and the American People intend to support now and in the future, then the VA (and Congress) ought to seek partnership between the VA and the schools so that the job can be done effectively, efficiently, and compassionately. All too often the Congress drives the VA into unrealistic positions, and in turn the VA backs schools into an administrative corner. The result is chaos in the delivery of the single largest financial aid program to students in this country's history. The veterans are the ones who pay the price.

If administrative relief is not forthcoming, and if a cooperative attitude between the VA and institutions is not acquired within a very few years, you will find colleges and universities across the country dropping out of the VA program entirely. The costs and potential liability in the current program will frighten educators away from an otherwise worthwhile program. The VA will lose its unsung partner in helping millions of veterans who gave of their personal lives for the benefit of the country but who could not receive compassionate, effective, and efficient delivery of the benefits their society promised them.

We in the higher education community seek your assistance in these matters. I as a taxpayer and an educator personally feel that your efforts in this area will be most worthwhile.

Sincerely,

George M. Safford.

SALES & MANAGEMENT TRAINING OF ATLANTA,
Atlanta, Ga., April 15, 1977.

Mr. FRANK STOVER,
Assistant Counsel, House Committee on Veteran Affairs, Cannon House Office Building, Washington, D.C.

DEAR MR. STOVER: I appreciate the courtesy that has been shown to me by your office and thank you for this opportunity to present my feelings to you and your committee.

I have enclosed copies of some recent correspondence that I sent to various people in Washington since we were informed of P.L. 94–502.

Mr. Stover, it is our feeling that an unnecessary hardship has been placed on schools such as ours by some provisions of P.L. 94–502. Those provisions we specifically object to are:

1. Six months "normal" (80 percent of all students) completion time for the homestudy portion.
2. Prohibition of the veteran's mail going to the school address.
3. Parts of the two year rule.

Our feelings in regards to the six month completion requirement are these:

We are required to certify that more than 50 percent of our graduates are employed in the field for which we train (How many colleges could do this?); why is 50 percent not a high enough percentage for those who take six months to complete? Our survey (December 1976) showed that some 58 percent of our students took more than six months. Eighty percent of the students took more than five months. It seems asinine that we lost two months, December and January, recruiting time waiting on a new approval.

This ruling forces us to slow down our fast students. Not only is this in direct contrast to the whole concept of self-paced study, but, in many cases, it keeps people on the unemployment roles an extra month or two.

Recommendation: We recommend that the six month completion requirement be modified to reflect a 50 percent requirement as "normal".

By prohibiting the veteran's mail from going to the school's address, several hardships are imposed.

Schools are required to enforce more stringent credit standards on prospective enrollees. In Atlanta a large percentage of our students are minorities who, in many cases, are unemployed. The financial risk to the school is simply too great to accept students who "promise" to pay with their G.I. Bill when they get it, if they have poor credit ratings or are unemployed. If their family needs groceries, they will put the school on the bottom of the list. Consequently, many are turned away from programs they might like to take and end up enrolling in a full-time student situation where they can "earn" thousands of dollars per year, over and above tuition. This seems to propagate living off the government, rather than encouraging them to become contributing factors to our society, tax payers as opposed to tax takers.

Recommendation: We recommend the use of a consent form (see attachment "A") that clearly states that:

(*a*) The student must personally sign all certification cards and checks; and that

(*b*) There is no power of attorney used by the school. This form would authorize the mail to come directly to the school. If a student did not wish to sign the form, it would be an indication that he may have plans for the money other than tuition payment.

It is especially important to note that, in most cases, all of the money that the student receives from the V.A. is owed to the school and that he is paying another 10 percent himself.

Under the present two year rule, we may offer the Residence portion of our program anywhere we are licensed, but only the Atlanta location is "approved for Veteran's benefits."

We are licensed in several other southeastern states. It is much more practical for us, as well as the students, to send one or two instructors to field locations than to try to get 20 students to come to us. The trip to Atlanta interferes with their jobs, as well as the fact that it is very costly for them. In our type of school there is not really any heavy equipment that needs to be moved from site to site, making field locations quite practical.

We train, at present, in field locations all over the United States for such organizations as the U.S. Coast Guard; U.S. Army; Zep Manufacturing; National Vendors; Life of Georgia; Rollins, Incorporated; and others. These programs are quite successful.

Recommendation: We recommend that programs be evaluated and field locations be allowed, if it is in the best interest of the veteran and the school. Field locations should, however, be required to meet the same safety and instructional requirements as set forth by the school's approved location.

Please bring these points before your committee for consideration. They are, we feel, reasonable requests. To be most effective, the G.I. Bill should be administered in a manner that helps both the veteran and the school to operate in a smooth manner. I feel that the procedures recommended here will help that cause.

Thank you for your consideration.

Sincerely,

JAMES C. SHAFE, *President*.

Enclosures.

NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS,
CENTRAL OFFICE AND PLACEMENT SERVICE,
Washington, D.C., March 14, 1977.

Congressman OLIN E. TEAGUE,
Chairman, Subcommittee on Education and Training, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN, The National Association of Student Financial Aid Administrators would like to take this opportunity to express our support of H.R. 3440, which calls for the elimination of the 85–15 rule and the "two-year" provisions and returns the rules to their old applications.

Enclosed for your information is a copy of a letter which we had previously sent to the Director of the Veteran's Administration for consideration regarding Public Law 94–502 and subsequent interpretation in DVM Circular 20–76–84.

Your support of this bill will be sincerely appreciated by our members and will certainly provide badly needed relief from the administrative nightmares which have been confronting post-secondary institutions as a result of these provisions.

Sincerely yours,

DALLAS MARTIN,
Executive Secretary.

Enclosure.

NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS,
CENTRAL OFFICE AND PLACEMENT SERVICE,
Washington, D.C., February 18, 1977.

ADMINISTRATOR OF VETERANS AFFAIRS (271A),
Veteran's Administration,
Washington, D.C.

DEAR SIR: The National Association of Student Financial Aid Administrators would like to provide the following comments on the proposed policies and procedures for implementing PL 94–502 as published in the Federal Register on December 6, and the changes which were outlined in DVB Circular 20–76–84, issued January 7, 1977.

COMMENTS ON DVB CIRCULAR 20–76–84

Most of the institutions which are represented by members of our Association are very concerned with the provisions regarding the 85–15 formula which was outlined in PL 94–502. The provisions which were outlined in DVB Circular 20–76–84, for a waiver of the 85–15 computations when the enrollment of veterans on a campus does not exceed 35 percent is certainly a great improvement. However, we are still very concerned that the Veterans Administration has only provided a temporary waiver of the BEOG and SEOG computation requirements. If the intent of the original 85-15 formula was to address legitimate concerns regarding the educational quality of programs in which veterans were enrolled, then what relevancy does the percentage of Basic Grant and SEOG recipients have on the problem?

To comply with this provision would indeed be a costly and time-consuming reporting burden for all institutions. Further, most institutions do not have data processing programs which can automatically merge financial aid data with the institution's veteran enrollment data. Therefore, this reporting requirement will necessitate costly manual processing or expensive conversions to an institution's automated data processing systems. If there is a need for this data, then we would suggest that cumulative statistics could be obtained from the data which the institutions already provide to the Office of Education on their annual Fiscal Operations Reports.

COMMENTS REGARDING THE DECEMBER 16 FEDERAL REGISTER, PAGE 55022, 3H

PL 94-502 noted that, regardless of the Family Education Rights and Privacy Act, such records of non-veteran students as the Administrator determines necessary will be made available by the institution for examination by VA representatives. While this is the right of the VA, we would hope that this requirement would be carefully defined by the VA, in cooperation with HEW to assure institutions that they are not in violation of PL 93-380 and PL 93-568.

Thank you for your consideration of these comments. If we can provide you further information, please feel free to contact our office at (202) 785-0453.

Sincerely yours,

Dallas Martin,
Executive Secretary.

Colleges & Universities Speak Out on Cost of Federal Compliance in Higher Education—A Special Report, December 1976

(By the Commission on Colleges, Southern Association of Colleges and Schools)

I. BACKGROUND

In December 1975 at the 80th Annual Meeting of the Southern Association of Colleges and Schools, the Executive Council of the Commission on Colleges instructed the staff of the College Commission to conduct a study of the effects of compliance with federal legislation and regulations on the quality of education at its member institutions. To advise the staff and recommend policy, a task force of member presidents and Executive Council members was appointed in February 1976.

The staff began to design an instrument to measure cost in time and money and to identify the problems created by the entire span of federally mandated programs affecting its member institutions. The Commission was aware of a forthcoming study by the American Council on Education entitled "The Costs of Implementing Federally Mandated Social Programs at Colleges and Universities." In early March, a SACS staff member met with Ms. Sharon L. Coldren of ACE's Policy Analysis Service who was working with Dr. Carol Van Alstyne in compiling the study. Ms. Coldren was good enough to share with SACS the design of the study. During the discussion it became apparent that the costs of compiling such a comprehensive study for 711 institutions would be prohibitive. Estimates of the cost ranged from $1,000 to $3,000 per institution, bringing the cost to the entire membership to between one and two million dollars. Since the assumption was made (subsequently borne out by a large number of responding institutions) that many institutions would not be able to break out accurate cost-time data, the cost of such a study did not seem to be justified by the accuracy of the results.

Therefore, it was decided to send a letter (see Appendix) to all member and candidate institutions of the Commission on Colleges. The letter assumed an increasingly adverse impact upon member institutions in the compliance area as reported by a number of presidents of member institutions at seminars on accreditation conducted in the states of Alabama, Florida, Kentucky, Georgia, North Carolina, South Carolina, Mississippi, Tennessee, Texas, Louisiana, and Virginia between September 1974 and February 1976.

The letter requested information concerning, "the extent to which the Federal Government has injected itself into the operations of your institution via compliance regulations in such areas as: Title VII, Title IX, OSHA-Health and Safety, Eligibility for Federal Funding for Institutional and Study Grant Programs, Department of Labor Regulations, Internal Revenue Service Regulations, Buckley Amendment Regulations, Termination of Employment, EEOC or OCR action, and instances of cancellation of the flow of federal funding by federal agencies without notice and/or hearing.

"We would ask of you that you estimate your current annual total cost in time, money, and efforts of compliance with the above and all other Federal regulations or requirements. We want to be able to take to Congressional hearings, which we may find it necessary to attend, a documented story of the tremendous impact Federal bureaucracy is having upon education in the South. Also, if you care to do so, please describe any instances where you feel your institution has been unfairly or arbitrarily treated under any federal program or by any federal office. After we have put together such a document, we will be back in touch with you with a report on our findings and any recommendations for further action."

The resulting cost estimates which are contained in the following summary of reports from member institutions are just that—estimates. Indeed, if the two-billion-dollar figure mentioned in a national magazine is accurate, the SACS estimates are very, very low. This report (and the much more detailed study by ACE of six institutions) may be subject to criticism on that ground. However, the merit of the ACE study and of this study is that both reach the inescapable conclusion that compliance action is having a serious and rapidly accelerating negative effect on the primary mission of institutions of higher education. Some respondents questioned whether or not we are approaching a break-even points between costs and benefits. It would be helpful if a complete cost-benefit study could be undertaken, but such a study is beyond the scope of this document. What can be stated here is that it is extremely important for executives in the federal government and members of Congress to listen to the agonizing concerns of top administrators of several hundred institutions in eleven states as they describe the negative impact upon educational quality caused by expanding federal compliance rules, regulations, and procedures.

II. SUMMARY OF THE REPORTS OF MEMBER INSTITUTIONS TO THE LETTER ON FEDERAL COMPLIANCE

1. There is nearly complete agreement among member institutions that the growing burden of compliance is having an adverse impact upon the quality of educational programs and the amount of educational planning which institutions can devote to their own purposes.

2. The most common concerns expressed were related to Buckley regulations, VA regulations, Dept. of Labor, OCR, EEOC, HEW, discrimination actions, and affirmative action plans.

3. There were a number of concerns related to the timing of reports and the data required. These center around:

(a) The increasing amount and complexity of data.

(b) The ever-changing nature of data.

(c) The data which is required retroactively to justify prior decisions.

(d) The short time frame in which institutions are required to respond, coupled with a long delay in the production of data resulting in obsolete reports by government agencies.

(e) The need for coordination among agencies, i.e., many reports require the same or slightly different data in differing form.

(f) The reduction of the information capability of the institution for educational planning purposes.

4. The effort to respond to continually changing requirements and procedures in order to preserve federal dollar flow creates an inability to devote adequate time to the real objectives of the federal regulations.

5. The feeling of the majority of the institutions is that they have not been treated unfairly. However, there were a number of important exceptions which are summarized in Section IV of the report.

6. A concern was expressed with the ambiguity of guidelines, agency roles which have overlapping and competing functions, and inconsistent interpretations among or within government agencies.

7. Some institutions voiced a concern that certain regulations and agency actions seem to go beyond the intent of the laws passed by Congress.

8. Some institutions saw regulations tending to force standardization to the detriment of an important uniqueness and diversity in higher education.

9. In a variety of ways, the reports indicated that the compliance load might very well be approaching a level beyond the ability of some institutions to respond.

10. Concern was expressed over massive future capital outlays which might be involved in OSHA and the regulations making provision for handicapped students.

11. Some institutions deeply resent the fact that there is presumption of institutional guilt by federal agencies and officials.

12. Some presidents reported an escalation in compliance requirements for states, compounding the impact upon their institutions.

13. Some institutions felt that much of the problem was that the legislation or regulations imposed on institutions of higher education were drafted without adequate educational input and, therefore, were often inappropriate and did not work well.

14. Many institutions reported that the data required was not available or was too costly to gather, or that they did not have the time or resources to break out the data to give the requested cost estimate.

15. An overwhelming number of reporting institutions applauded SACS' efforts to address itself to the problems created by federal compliance requirements and to attempt to bring about some sort of relief in this area.

The entire membership of the Commission from the eleven states referred to above was contacted. Out of the 711 member and candidate institutions, 424 reported. Of these, 254 institutions reported an annual cost of $32,976,029, and 170 reporting institutions did not give a cost estimate. Two hundred and eighty-seven institutions did not respond.

There are a number of significant one-time costs relating to affirmative action plans, litigation, or various reporting requirements and regulations. Perhaps the greatest is an estimated 50-million-dollar cost which is related by one institution to meet OSHA regulations in a 120-million-dollar hospital complex.

III. EFFECTS OF COMPLIANCE: SELECTED QUOTES FROM RESPONDENTS

1. "Category I—Federal Bureaucracy . . . but overlapping functions and responsibilities of federal bureaus and agencies operating within loosely-written mandates have resulted, in recent years, in mounting confusion . . . Because the federal agencies themselves are not likely to agree upon concepts, definitions, or procedures, 'the institution' has been relegated to the status of a marionette. . . ."

"Category II—General Compliance—The most time-consuming aspect of recent federal encroachment is the development of compliance procedures and plans. Such endless reporting appears to be unnecessary; if each institution could receive a clearly and logically written set of guidelines, then an institution would merely have to respond negatively or positively with regard to intended compliance."

"Category III—Data Management—Each routine or program must be developed as a stand-alone operation. Definitions, procedures, etc., change each year. What is accepted today may not be accepted next year. The computerized record keeping and administrative operation of the data management system has grown to a point that sound educational decisions may not be made prior to providing an array of time consuming, costly activities directed to the federal bureaucracy."

2. "I don't think anyone would question the VA's efforts to try to improve their system; however, the responsibility has been shifted to the colleges. I don't think this is a good idea. The VA, as noted, is also forcing policies on the colleges. In addition this shifts the responsibility from the student or veteran to the college."

3. ". . . this amendment [Buckley] continues to leave us very vulnerable in accepting transfer students from other institutions because of the reluctance of some administrators to communicate with us or get involved for fear of a lawsuit."

4. "Non-compliance or violation of federal regulations in these areas [affirmative action and equal rights] carry the threat of withholding contract funds and even revenue sharing funds from the agency found to be in violation. Non-compliance by one community college could affect federal funds to the entire system."

"The effect of federal government regulations and controls on 'the institution' are more subtle. The latest developments appear to be a tendency to enforce federal regulations through state coordinating councils or agencies . . . as a result, compliance requirements that appear to be state directed are in fact legislated by federal law."

5. ". . . some of the reports appear to be in direct conflict with each other."

"Diversity has been characteristic of higher education in the United States. Recent legislation and regulations have a tendency toward homogenization, forcing institutions into a common mold. This not only is destructive to institutional freedom, but it destroys the student's right of choice."

"Legislation and regulations have proliferated so rapidly that institutional personnel can no longer keep up with all of them."

"Many regulations are open-ended and ambiguous . . . the bureaucrats themselves are often in disagreement on how regulations should be interpreted."

6. "You have pinpointed what is, in my opinion, the number one problem facing educational institutions founded on the philosophy of local autonomy and the service to a local community."

"We have made actual comparisons in the report requirements imposed at the Federal level over the past five years and find that in our instance the volume of material has grown 1600%."

"We have had one major 'bad' experience . . . with the Special Services Program under Title III . . . At that point, we were charged with racial discrimination which was later investigated. Before it was investigated, our funds were refused for the following year in spite of the fact that the new director had reorganized the program and it was functioning appropriately. The investigation into the complaint consisted of a week-long series of interviews, etc., on our campus by two staff people from the Office of Civil Rights in Atlanta. We were given two weeks notice to prepare for this hearing and, incidentally, were never notified of the charge until we received the telephone call setting up the investigation dates . . . we were promised a report in forty to sixty days after the investigation and as of this date, seven and one-half months later, and in spite of numerous requests on our part, we have still not received a report of their findings."

7. "These V.A. requirements are and have been causing us considerable agony. They in essence destroy our Developmental Studies Program which we have been building and developing for the past ten years. Just when we have an approach to remedial education which we feel to be solid, sound, and much better than anything we have used in the past, V.A. regulations demand that we revert to what we were doing five years ago or deny our students their V.A. benefits."

8. "We are laboring under a fantastically mounting mass of required paperwork each year, due primarily to the constant flood of new laws, regulations, and guidelines."

"E.E.O.C.—Title VII, Executive Order 11246, Title IX—Action here has been continuing since August, 1972. To date, University has submitted three different Affirmative Action plans for approval by E.E.O.C. To date, no approval has been received despite the passage of nearly one year since the last plan was forwarded to the Department of H.E.W."

"Title IX—It has had a minimal change effect on personnel procedures (due to its duplication in many areas with Title VII, Executive Order 11246, etc.), but it has been a disruptive force requiring additional expense of both time and money."

"E.E.O.C.—O.C.R. Action—In this area the problem has been the justification, furnishing of records, required documentation, etc., to defend action taken at earlier dates . . . One of the biggest problems with Federal intrusion has been the need to document and retain data and records justifying personnel actions taken. This documentation and retention problem is compounded by the question and decision of what is going to be required at a later date to prove or justify a decision."

"All of the above activities are supported by state-appropriated funds. Had these compliance activities not been required, or had they been funded by Federal monies, at least twenty-five additional faculty positions would have been available for our institution. . . ."

"While the expenditures of time, money, and effort are frustrating and distressing, it is my feeling that the most insidious element of the problem is the creeping and subtle control that is being exercised by Federal agencies. No longer is an institution able to 'call its own shots'. Many times, it is necessary to forsake 'quality' in order to comply with Federal guidelines."

"We recognize the concerns for equality of opportunity and treatment that produced these pieces of legislation and we are not unsympathetic to such concerns. On the other hand, the controls, the expenditure of funds and related time allocations—all make it much more difficult for an institution to provide the environment in which equal opportunity and treatment can take place, since huge sums of money are being syphoned off into administrative duties and paper work."

9. "Perhaps the most frustrating aspect of all this is the fact that much of the information being requested by different Federal agencies is essentially the same, with minor differences in definition or format which, in effect, necessitates the preparation of a duplicate report almost from scratch."

10. "There are many Federally sponsored programs which benefit the University and our students, which require that certain conditions be met, particularly with regard to fiscal responsibility, and the University expects to spend time and money to satisfy these conditions."

"At the same time, we feel the same frustration and aggravation that many of our colleagues feel when we are confronted with regulations and compliance requirements which seem to us to serve no practical purpose, are unrealistic or prohibitively expensive, go beyond the intended scope of legislation, or are imposed without regard to the distinctiveness of the institution."

"Our concern, like yours, is that the Federal bureaucracy begin to limit itself to useful projects which are clearly within the intent of the Law, and with which we can reasonably expect to comply."

11. "For example, for some time we have been expected to be in compliance with the Buckley Amendment, yet for some eighteen months we have been awaiting final regulations and still do not have them."

"I do have one area of great concern in that I feel institutions are denied due process by the Department of Health, Education, and Welfare, Higher Education Branch of the Office of Civil Rights. When a person files a complaint against an institution, it often receives a letter stating a charge has been filed, yet the nature of the charge is not stated nor is the name of the person filing the charge mentioned."

12. "We do not dispute the government's right to know nor the necessity to check in areas affecting the national social conscience, but we are disturbed by the cumbersome procedures and the lack of support for the administrative costs. In a very small institution, under the fear of penalty or the loss of Federal funds, we must further short-change the educational programs in order to handle the administrative burden."

13. "The only requirements imposed on us as an institution are requirements designed to safeguard the taxpayers' money and to prevent careless or dishonest administration at the institutional level."

"We are dealing, are we not, with individual liberty?"

14. "EEOC and OCR Relationships—Two and one-half years of work . . . were required to develop the University's Affirmative Action Plan . . . Numerous negotiations with the Regional Civil Rights Office, time-consuming preparations for site visits, revisions of earlier Plans based on new interpretations of guidelines by OCR, and still no response of Plan approval since submission two years ago. . . ."

"Institutional and Student Grant Programs—. . . laws concerning guaranteed student loan programs have placed educational institutions in the position of being liable on defaulted loans, although the institution has no authority in granting such federal loans . . . The institution has no control over the decision made by the lender and must accept the money for the student and thereby assume liability."

". . . each time we seem to have the data systems capable of routinely responding with the information needed . . . there is a change either in forms utilized or information needed . . . Parenthetically, it should be pointed out that while the agencies insist upon a prompt reply from the institution, publication of data resultant from the surveys is often several years later; thus, comparative information is obsolete when it becomes available . . . A second problem relates to ever changing sets of definitions for data elements . . . As an example, we might cite the changes in the definition of ethnic groups. Data on student enrollment and graduation are provided by ethnic group categories. Again this year new definitions are provided. At ____________ student ethnic data are acquired and placed in the computer-based student information file at entry point—when the student is admitted. With an enrollment of more than 17,000 students, to update any single piece of demographic data at one time is a major undertaking."

". . . there is the subtle but significant influence exerted by federal agencies in shaping or determining the nature of the institution's management information capability by the kinds of requests which are made of the institution."

15. "It is difficult to deny the basic need for programs such as Title VII, Title IX, etc., . . . A vital question that must be asked, however, is whether or not they can in all cases be given top priority in this decade of economic pressures."

"Planning and establishing reasonable priorities becomes progressively more imperative to the success, and in some cases survival, of an institution, and this task becomes progressively more difficult when so many costly priorities are demanded by federal regulations."

"Perhaps the most costly and time consuming activity is dealing with EEOC. Guidelines under this agency . . . often require submission of massive amounts of employment data, staff time, and the absorption of legal costs in cases that were not properly evaluated and handled by what is apparently an inadequately staffed agency."

16. "Federal officials are determining educational policy at this institution. First, we realize as we submit proposals that certain 'types' of proposals are apt to be more successful. Second, after a proposal has been funded, we are likely to have telephone interviews about budgets, etc. which, in essence, will alter what this institution set out to do."

"Another area where there has arisen sharp conflict . . . the VA has every right to interpret its regulations and to fund or not fund a Veterans program. We, on the other hand, do not feel that the VA has any right to determine academic programs at institutions."

17. "It is our estimate that the current annual cost . . . resulting from The Federal Government regulatory impact upon the operations of ____________ University is approx. 8.41 F.T.E. positions at an expense of about $126,745.00. You may be interested to know that we estimate that we expended the equivalent of about $400 salary dollars in the development of this report."

18. "It seems to me that the costs to this college lie in needed work postponed, or inadequately done, or not done at all. The administrative staff has been so overwhelmed with both Federal and State processes and paper work, that planning and supervision of the educational program has not received the added attention that it deserves at this stage in the life of the institution."

19. "When we were visited by an auditor from the Dept. of Labor to review our EEO situation, that auditor was not interested in the data and reports already accumulated. He did his own study and did not send us a copy of his report. Later, we read in the newspaper that we were being sued by the Dept. of Labor for sex discrimination."

20. "Another report that has increased our work load is the biennial survey of enrollment by racial/ethnic background for the Office of Civil Rights. Previously, this report required one page to provide the information requested. At the present time, the report has been expanded to twenty-six pages."

21. "Inasmuch as we try to run with a very thin layer of overhead, it has meant that in fact we simply do not do a number of the things we ought to do in order to improve our own operational procedures."

22. "Our problems are modest compared to those of many other institutions, but the overhead cost which the government is loading on to our institutions today is producing a tragic diminution of effectiveness of allocation of our resources to the most effective ends in education."

23. "In a day when the smaller independent college is literally fighting for survival, the financial commitments needed to implement some federal programs, indeed, complicate the survival process."

24. "None of the costs identified above include the substantial dilution of time and effort on the part of the faculty and the administration in dealing with federal programs and their implementing guidelines and interpretations, or for addressing the continuing flow of proposed regulations that issue forth from Washington. For example, the section of the draft regulations for implementation of Title IX of the 1972 amendments to the Higher Education Act would have required, had they been approved, that universities 'establish and use internal procedures for reviewing curricula, designed both to ensure that they do not reflect discrimination on the basis of sex and to resolve complaints concerning allegations of such discrimination, pursuant to procedural standards to be prescribed by the Director of the Office of Civil Rights'. President Richard Lyman of Stanford, writing to Caspar Weinberger in protest said, 'In all my

experience as a university professor and administrator I have never seen a proposal seriously made by a Federal agency that would intrude so directly into the substance of education, into what students read and what professors say'."

"Admittedly, finding an equitable basis for proration of library expenses to government contracts has proved difficult. [The HEW] solution was to propose that no portion of library expense be allowable in the recovery of indirect costs. In other words they attempted to deny the applicability of a library for research purposes altogether."

"The point of all this is not to deny the need for social action, the propriety of equal opportunity and fair wage standards, the requirement for safe equipment and work practices. It is to bring to your attention that, in the pursuit of worthy objectives we are creating a paper-work nightmare. We are adding unnecessary and unproductive administrative costs. And, as Secretary Mathews has said, we are losing autonomy and our responsibility. Government agencies and bureaucratic personnel are looking at us as employers and federal contractors without regard to the manifest differences between an institution of higher education and a profit making, tax paying corporation. It is being done at the cost of distraction for our faculty and financial penalty to our students. And it is profoundly changing the climate of the college campus."

25. "We do have federally funded programs that are beneficial to the college, and do not require unreasonable amounts of time for reporting. This, I feel should be pointed out in your report. Except for the excessive reporting requirements, we have not been treated unfairly."

26. "Needless to say, the expense is enormous and the time and effort which our small staff must spend on these matters is entirely out of proportion to what I consider the relative importance of the functions of an educational institution."

27. "We have your letter of August 5, 1976 in which you asked the cost of our institution complying with federal programs. In order to answer this scientifically, we would need a federal grant to hire a team of cost accountants to tell us. But we can generalize with a reliable degree of accuracy, so that you might have some opinions for your presentation."

28. "I find the situation totally incomprehensible and intolerable concerning the pressures and threats that can be and are made through the federal regulatory agencies towards colleges who do not abide precisely by their edicts concerning the total monies received through any federal sources. What I am saying is simply that if you are in violation in a minor way in one area, even if that area is not very significant, your total programs are in jeopardy and HEW makes no bones about their willingness to put you out of business unless you comply. Many times the regulations and interpretations as rendered by HEW are in total opposition to what the . . . congressional document intended. I have spent hours talking with our senators and representatives who in many instances have voted for certain basic laws, only to have HEW interpret them in such a manner that it would be totally opposite to their real intent. In actuality it simply means that HEW is the maker of the laws, and not the administrating force behind the laws, and this is playing havoc with all of our institutions, public and private, throughout the country."

29. "All of us agree that for the most part the ideas behind the regulations are good and worthy; the difficulty is that when bureaucrats begin to write regulations, they become extremely complicated and, in many instances, difficult to administer as well as expensive in time and effort. They are becoming so numerous that they involve a genuine encroachment on the freedom of action of the private colleges."

30. "This represents 2% of our budget and exceeds direct expenditures in each of the following instructional departments for 1975-76: Dental Hygiene; Medical Technology; Mental Health: Physical Education; Art; Drama; Chemistry; Physics; Criminal Justice; Computer Center; and Special Studies."

31. "One of the basic problems—which has been pointed out nationally—is the fact that Executive Order 11246 was written for industry and imposed without any basic changes on educational institutions, which have vastly different structures."

"Second, Federal regulations require each educational institution covered, however small, to develop nationwide statistics on availability of minority and female faculty. The U.S. Office of Education will begin in the fall of 1976—twelve years after the passage of the Civil Rights Act of 1964—to collect statistics on degrees awarded on the basis of race and sex."

32. "It is evident from the study that we spend better than thirteen percent of the total effort output of the college campus in involvement in federal reporting."

33. "In determining student financial assistance, need calculating has been taken away from the college through the B.E.O.G. program. Participation in the B.E.O.G. may soon be restricted to those institutions having a small percentage of developmental students. This violates a basic [tenet] of the community college."

34. "The list of problems such as these is almost endless. I would point out that while the regulations are quite detailed and specific regarding what must be done to effect compliance, they are vague and conflicting with respect to how compliance can be achieved."

35. "On December 8, 1975, Rev. Proc. 72–54 was superceded and the new procedure explicitly applies only to private institutions. It was designed to preclude racially discriminatory policies. Section 3.02 of the new Procedure provides: 'A policy of a school that favors racial minority groups with respect to admissions, facilities and programs, and financial assistance will not constitute discrimination on the basis of race when the purpose and effect is to promote the establishment and maintenance of that school's racially nondiscriminatory policy as to students.'

"While the above does not require a policy of inverse discrimination, it appears to encourage such a policy at a time when there is confusion in the state and federal court decisions, and a lack of guidance from the U.S. Supreme Court. In De Funis v. Odegaard, 94 S. Ct. 1704 (1974), only Justice Douglas wrote an opinion on the merits. He rejected the policy of selecting minority applicants to achieve a racial balance in an entering class."

36. "As you can see we are using the equivalent of approximately 13 full-time staff members to handle all of the paper work, reporting etc. required by the federal government. Placed in different terms, you could say that about $2 million of our endowment is necessary to produce the funds required to meet all of the requirements of the federal government in one way or another."

37. "We recognize that today's pressures are different from those of earlier periods and demand more of us in terms of reports, evidence of compliance to federal regulations, etc. What we do object to are those instances in which federal rules and regulations move beyond the point of oversight and begin to dictate institutional mission, policies, and procedures. Some examples, in our opinion, of the latter, are as follows:

Federal regulations for all programs must be interpreted. All too often, the 'official' interpretations are not in agreement with each other; yet, the College is held responsible for the 'correct' interpretation . . . Confusing and directly contradictory instructions have been given on several occasions. The College has been criticized for doing precisely what we were directed to do."

38. "The total cost of this activity and the attendant supplies and equipment consumed total at least $439,000 for the fiscal year. As one of our Deans observed, 'just think what we would have if we could put this kind of money into scholarships for females and minorities.' "

". . . Underlying the support of continuing Federal funding is the reservation that 'we have almost reached the saturation point in terms of guidelines, monitoring devices, procedures, reports and rules.' This conclusion reflects the high level of frustration that university administrators face in trying to reach the worthwhile goals that underlie the Federal compliance procedures. The procedures themselves drain off the time and energy necessary to achieve the goals. . . ."

"A sense of frustration now threatens to erode any progress we have made. In addition the frustration is creating a serious estrangement between the university and the Federal government. We are frustrated by the numerous, time consuming, expensive, and incompatible reports we have to submit. We are frustrated when an anonymous, lower or middle level bureaucrat in Atlanta or Washington makes a decision that results in our having to rearrange our priorities without our having any notice or input into the decision. We are frustrated when an apparently minimally competent employee of the Federal Government substitutes his judgment for that of our senior administrative officers and concludes that we are wrong because we did not do things his way. We are frustrated by a series of Federal compliance requirements administered by different agencies with each specifying different requirements. We are frustrated because we are beginning to feel that we are spending more time complying than we do educating. . . ."

39. "Let me cite one example—satisfying the equal employment opportunity laws. An enormous amount of resources have been used by this institution to met the basic requirements of conducting utilization studies, determining appropriate recruitment pools, generating availability statistics, writing and rewriting an Affirmative Action Plan, establishing grievance procedures, developing institutional goals and timetables and communicating policies and procedures to concerned departments and individuals. All this effort, however, does not, cannot produce the immediate results desired by HEW and the Labor Department or solve the more basic problem of increasing the number of women and minority students in graduate degree programs and thereby add to the long-run supply of available candidates for higher education positions. . . ."

40. ". . . for the last two years we have not been able to add additional personnel to our administrative and support staffs except where noted, and therefore the above has had to be absorbed into existing workloads. This has resulted in decreased efficiency in all aspects of the operation of the College, and I am concerned that it has already affected the quality of our educational process. . . ."

41. ". . . If there is a single harsh criticism it is in the area that one agency seems not to be aware of or care what any other agency is doing. . . ."

42. "In effect the government has been placed in the position of prescribing and supervising the activities of private educational institutions in such areas as athletics, placement, student financial assistance, the conduct of educational programs and activities, facilities and housing, both on and off the campus. . . ."

". . . If something isn't done soon to throttle the speed of the federally mandated programs, the present estimated cost of $2 billion as recently [stated] in Change magazine will double or triple within a relatively short period of time. . . ."

43. "An HEW example: In 1974 a ____________ group filed a discrimination case with HEW and EEOC, setting in motion the compilation of two large cartons of documentation, two HEW visits to our campus by a team that involved nearly a week of many people's time for each visit, and the setting up of an office on campus for use of the HEW team when they were here. During the visit the team occupied uncounted hours of student and faculty and staff time in leisurely interviews. Two years later, there has been no report from HEW. We found very little that was fruitful in this procedure."

44. ". . . A ridiculous example occurred recently where a poet had given some readings on our campus without pay, except that he was allowed to stay in our dorms and eat in our cafeteria while here. Because he claimed unemployment benefits after leaving, we had to pay such compensation tax retroactively together with completing a complex form to serve as an addendum to our next quarterly report to the Employment Security Commission"

"Please understand that we know reporting is essential, as are regulations, but it does seem they have gotten out of hand. And help toward simplification and unification would be a boost to hard pressed institutions of higher education."

45. "I should like to bring to your attention a problem the State University System has recently had with a governmental agency. On July 1, 2, the State University System of ____________ was notified . . . that a major contract ($3,500,000) was being cancelled. This contract was to have provided summer salaries for faculty and graduate students, as well as academic year support for students and technical help. This unexpected termination has seriously affected continuity of research support and has left a large number of graduate students stranded without support. There has as yet not been a hearing on this contract, but no matter the outcome, the damage has already affected our faculty and students."

46. "Of a total annual budget of approximately six million dollars, between 14 and 20 per cent is expended for the purposes as above stated. My conclusion [about] Federal impact is simply: 'There must be a better way' or we must find one—if we would continue to receive such beneficence and, at the same time, survive."

47. "Under Title VII of the Civil Rights Act of 1964, amended by the Equal Employment Opportunity Act of 1972, we have encountered incidents where employees file a complaint of discrimination on the basis of sex or race with the appropriate federal agency and a year or eighteen months elapses before the complaint is investigated. In the meantime, we are given none of the particulars

of the complaint. Hence, we are denied the opportunity to investigate for ourselves to determine if, in our opinion, a problem exists which we could correct."

"The Veterans Administration has attempted to hold us liable for their overpayment to veterans by determining this institution to be 'negligent' in reporting. We have taken the position that the Veterans Administration has a contract with an individual student. If the Veterans Administration chooses to pay before the fact, overpayment is its problem. The only way this institution will assume responsibility for negligence is in a court of law."

"The Buckley Amendment has not caused undue hardship in its enforcement, but on applications for admissions we are unable, because of federal encroachment, to ask a person's ethnic background. However, HEGIS reports and other federal reports require this type of information."

48. "Our budget for 1976–77 estimates an income of $5,234,000 of which only $153,526 will be from Federal sources. It requires about 50¢ for us to administer a Federal dollar."

49. "Those of us who form the leadership group here at ____________ College believe that the federal regulations that have been imposed upon the college thus far have not been unreasonable or excessive in their intent. As an historically and predominantly black college that was founded in part to widen and improve employment opportunities for black people, the college fully supports the efforts of the Federal Government to achieve the same things through legislation and regulation. However, we fully agree with many of the member institutions of the SACS that the amount of recordkeeping and reporting that is required under these laws and regulations has become rather excessive, and we fully support the efforts of the association to reduce some of these requirements. We also fully support the association's view that federal regulation has now extended itself as far as it should go to achieve necessary reforms in higher education and should not be permitted to extend any further lest it seriously endanger the independence of our colleges and universities."

50. ". . . The Federal Government has literally invaded every facet of the operations of this institution—with regulations, requirements, rules, and guidelines. We are doing our best to comply fully with all these, sometimes ambiguous, frequently duplicatory, and ofttimes meaningless, requirements. This is not to say that we believe our institution does not have a responsibility to account for the Federal funds which it seeks and uses in its educational program. We are concerned, however, with the extent and the confused nature of some of the compliance procedures and regulations."

51. "In the main, information I have received from those persons responsible for areas identified specifically in your communication drew the conclusion that much of the ordinary on-going activities of their units are directed toward the same goals as the compliance regulations of the Federal Government. As a result, the conclusion is that the University does not believe that the Federal Government encroaches upon their normal operations or impinges unduly upon their time."

52. "The one incident that I would mention in which our institution was treated unjustly by OCR was in 1973, after an OCR visit to campus. That office sent us a written evaluation and we were given 30 days to respond to that evaluation—a deadline we met. (In particular, the evaluation was so ambiguous in many of its statements that there was no way to know what the evaluators were actually referring to, and thus it was not possible to make correction if, indeed, we were at fault.) But subsequently OCR released to both ____________ (a local radio station) and ____________ a copy of the original evaluation without any reference to the fact that the institution had responded to the evaluation and shown in many cases that it was incorrect. An example of the kind of thing that was said: OCR reported that 'we find no evidence that a position paper calling for the setting up of an ethnic studies department had been implemented.' By the time the OCR team visited our campus we had hired an Ethnic Studies Director who had status equal to a discipline head, and had initiated several courses in an ethnic studies minor. The OCR team had spent at least two days in the ethnic studies office visiting with both students and the director. That kind of misrepresentation of facts is blatantly unjust and terribly misleading when given to the public who, in turn, believe the report as true."

53. "In both cases I think that the most outrageous aspect of the intrusion was the assumption on the part of the bureaucrats that it is our responsibility to prove innocence. The tradition of our legal system holds that guilt has to be proved, not innocence."

IV. SUMMARY OF INSTITUTIONS REPORTING UNFAIR TREATMENT

The institutions reported sixty instances in which they experienced some type of unfair or arbitrary treatment by federal agencies or officials. The breakdown is as follows: EEOC—14, DOL—10, HEW—10, VA—6, OCR—6, AFFIRMATIVE ACTION—6, IRS—3, DEPT. OF JUSTICE—2, OSHA—1, CETA—1, and DEPT. OF INTERIOR—1.

The reported instances vary greatly in their effect upon institutions. Some involve smaller amounts of money and time; others represent years of sustained efforts or loss of millions of dollars. In all fairness to the federal government and its many agencies and programs, far more institutions did not report any unfair or arbitrary treatment or stated positively that they had not received such treatment. This fact, however, does not excuse such treatment or mitigate its impact when it does occur. The instances are sufficiently frequent to suggest a need for an increased understanding on the part of federal agencies of the nature of a college or university and more careful policing of their own officials.

Institutions of higher education are particularly vulnerable to unfair treatment by federal officials. They realize that the judgment of these individuals may weigh heavily in decisions to limit, terminate, or suspend vital—and often massive—amounts of federal support. Such judgments may also result in revocation of tax exempt status. Additional avenues of recourse need to be developed—other than the expensive route via the courts—against arbitrary or unfair treatment by federal agencies or officials. It is particularly important that federal agencies and officials preserve the rights of institutions of higher education to the due process to which they are entitled under the Constitution.

V. CONCLUSIONS

1. The overwhelming conclusion that appears from this study is that institutions and the quality of their educational offerings to students are being affected adversely by the growing necessity for federal compliance in a large number of federally mandated social programs. In light of this situation, it seems increasingly important that—prior to the enactment of legislation or regulations—the constituencies affected should be involved in formulating the legislation and the regulations. Such involvement will assist in clarifying and assessing the impact of such legislation or regulations. It also seems important that a cost-impact study be made of laws and regulations, and that only those which are absolutely necessary be enacted.
2. As a corollary to the above, it seems important that Congress should review such regulations before they go into effect in order to assure that the regulations do indeed carry out the intent and remain within the scope of the law itself. Such a review should be accompanied by the above study of the economic impact of such regulations.
3. A cost-impact study should be conducted of present legislation, (such as OSHA, remodeling facilities for energy efficiency, handicapped regulations, and ERISA).[1]
4. Consideration should be given to coordination of and consolidation of data gathering.
5. Consideration should be given to making one agency responsible for all of the activities in one area.
6. Additional mechanisms need to be devised to guarantee institutions of higher education fair treatment by agencies and federal officials.
7. More ways need to be found to reduce the growing burden of federal compliance upon all institutions of higher education.

[Appendix]

SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS,
Atlanta, Ga., March 25, 1976.

To: Chief Executive Officer of Member and Candidate Institutions, Southern Association of Colleges and Schools.

For some years now, many of the organizations representing higher education have become increasingly sensitive to the threat of federal encroachment upon the operations of our member institutions. The Commission on Colleges has been actively opposing the ever increasing control of the federal government in the day-to-day affairs of your institution. We have resisted increased federal control of accrediting bodies, we have successfully opposed the Justice Department in its attempts to make our visiting committee reports public documents and we are now challenging proposed legislation which would continue, in significant ways, to extend federal control over higher education.

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[1] For instance, in his Summer '76 College Board Review article "Is Regulation Strangulation?" Charles B. Saunders, Jr., of ACE estimates that OSHA requirements will cost institutions over 3 billion dollars and that remodeling and replacement of, "outdated academic facilities to make them more energy-efficient is estimated at over $8 billion."

The Executive Council of the Commission on Colleges has asked that we contact you and begin to build a record from all our member institutions as to the degree of present Federal control of the operations of our members. We would like to know from you as soon as possible the extent to which the Federal Government has injected itself into the operations of your institution via compliance regulations in such areas as: Title VII, Title IX, OSHA-Health and Safety, Eligibility for Federal Funding for Institutional and Study Grant Programs, Department of Labor Regulations, Internal Revenue Service Regulations, Buckley Amendment Regulations, Termination of Employment, EEOC or OCR action, and instances of cancellation of the flow of federal funding by federal agencies without notice and/or hearing.

We would ask of you that you estimate your current annual total cost in time, money, and efforts of compliance with the above and all other Federal regulations or requirements. We want to be able to take to Congressional hearings, which we may find it necessary to attend, a documented story of the tremendous impact Federal bureaucracy is having upon education in the South. Also, if you care to do so, please describe any instances where you feel your institution has been unfairly or arbitrarily treated under any federal program or by any federal office. After we have put together such a document, we will be back in touch with you with a report on our findings and any recommendations for further action.

Sincerely yours,

Gordon W. Sweet,
Executive Secretary,
Commission on Colleges.

Resolution

The member institutions of the College Delegate Assembly of the Commission on Colleges of the Southern Association of Colleges and Schools hereby resolve that the following statement be presented to the President of the United States, Members of Congress, and other appropriate Federal Officials. December 15, 1976, Atlanta, Georgia.

For more than a decade this nation has witnessed an explosion in social legislation that has touched virtually all of our institutions in important and necessary ways. The social conscience of our country has been explicity and legislatively reminded that individuals, corporations, and institutions of higher learning cannot conduct their affairs without giving equal opportunity to United States citizens regardless of race, creed, sex, or national origin. Specific legislation—such as the Buckley Amendment, Title VII, Title IX, health and safety legislation, ERISA, and eligibility for federal funding—as well as such agencies as the Department of Labor, Department of HEW, IRS, OSHA, VA, EEOC, and OCR have imposed heavy burdens upon our institutions.

Let us make clear at the outset that the institutions ratifying this resolution are strongly and deeply committed to the social goals of fair and equal opportunity and treatment, to health and safety protection for their people, and to fair wage standards. There are, however, a number of problems in the implementation of these goals. These problems relate particularly to compliance with regulations and directives which are published under legislative and executive mandates, regulations which now seem to endanger the very quality of higher education in this country. Attempts to comply with regulations often seriously undermine the achieving of the very goals themselves. At times regulations go beyond the intent of the legislators, a practice which may ultimately lead to the establishment of a de facto ministry of education in this country. In addition, compliance procedures and excessive regulation may well destroy the strength which a diversity of approaches to learning has historically given to our national system of higher education during its past 20 years.

Since before the turn of the century, the Commission on Colleges of the Southern Association of Colleges and Schools has had one overriding goal: to require that its member institutions maintain and improve the quality of the education which they offer. Through the voluntary, private, and independent peer-review process of accreditation, it has sought to continue to achieve this goal. The member and candidate postsecondary degree-granting institutions of this Commission, both public and private, perceive that the quality of higher education in the Commission's eleven member states is being adversely affected in a number of ways, as evidenced by a major study of member institutions. This study is enclosed for your information.

First and foremost, in a number of instances institutions are being treated as if they were guilty of undermining the very goals which they actively endorse. This is contrary to the fundamental tenet of American justice which holds that one is innocent until proven guilty. The 711 member and candidate institutions of the Commission on Colleges request that the President of the United States, Members of the Cabinet, Members of Congress, and Administrators in the Federal Government recognize the good faith effort of the vast majority of institutions of higher education in America to comply with the laudable social goals of the above programs.

The institutions of this Commission further request that the President of the United Sttaes, Members of the Cabinet, Members of Congress, and Administrators in the Federal Government do the following:

Reduce and consolidate the increasing amount and complexity of data which institutions must supply, and employ common data, where possible, for a number of agencies. This action is requested because excessive reporting requirements inhibit or destroy institutional capacity for educational planning. We submit that much of the time and money spent in reporting activities could be better spent in attempting to achieve the social goals we all desire.

Require legislative review of regulations published by agencies, since these regulations operate with the force of law and may go beyond or subvert the actual intent of Congress.

Require a clear interpretation of what institutions are being directed to do, and a consistent interpretation among and within federal agencies of their own regulations.

Recognize the mounting adverse effect upon financial resources of institutions and the excessive demands in time which administrators must take from education to devote to regulations, reporting requirements, and compliance proposals at the expense of the educational quality of the institutions. It is imperative that this load be reduced, that it be imposed only where necessary, and that it be justified by the agency promulgating such regulations and reporting requirements. Means must be explored to alleviate the costs of the above, so that the adverse impact upon the quality of academic programs will be reduced.

Take note of the growing danger of federal intrusion into the independence and into the very curriculum and grading policies of collegiate institutions. It is important to recognize that a de facto ministry of education would destroy a precious educational asset that has survived and strengthened this nation since its inception.

We again pledge our continued support to the goals and ideals underlying what can only be termed a long overdue social revolution. We recognize and are appreciative of the massive federal assistance to our institutions of higher education in this country. We ask that education and government officials work together in a spirit of cooperation to improve the quality of our institutions of higher education in order that they may more effectively serve our society and our nation.

National Association of Veterans Program Administrators—A Position Paper—the Issues Relative to the Veterans Administration and the Liability of Educational Institutions

(Written By: Paul D. McManus, Assistant Director, Office of Veterans Affairs, Northeastern University, Boston, Mass. 02115)

"The Veterans Administration is authorized by law to provide a wide range of benefits to those who have served their country in the Armed Forces and to their dependents." (V.A. Pamphlet 20-67-1, Revised February, 1976.) The benefit that involves Institutions of Higher Learning (IHL) is education. Initially the G.I. Bill was designed and implemented to assist the veteran in obtaining post-service education in a variety of areas. It was, in the past, a program carried on between the Veterans Administration (VA) and the individual with a minimum amount of institutional involvement and/or consultation. The VA attitude was, as long as the veteran was getting his entitlement, pursuing a program of studies, and the institutions were getting paid their tuition, the situation was satisfactory. Slowly, but surely, the VA has widened its sphere of influence for a number of reasons. The prime motivation for increased VA interference has been the "supposed" number of abuses of benefits. Much has been written and testified to relative to this point, the question is, who do you believe? The VA argues that almost $1.4 billion has been paid out in overpayment cases. But, they fail to tell anyone that the amount represents a total over nine years or that 75% of the money has been collected or is in the VA collection mechanism. So, obviously the problem, although present, is not of the grand proportions some would have us believe. In fact, the number of abuses are miniscule in comparison to honest usage of benefits. In retrospect, the VA, under heavy attack by the Congress because of the low Vietnam Veteran participation in education programs, conveniently looked the other way while less reputable "institutions" flourished. As a result, veteran participation increased but so did the problems. Congress legislated a unique administrative change that is partially responsible for the overpayment problem. The Congressional intent was laudable but the VA was not prepared to monitor the prepayment system to avoid overpayment. The combination of Congressional haste and VA ineptness are major contributors to the overpayment problem. IHLs were placed in the middle of new regulations and their own operating procedures which were incompatable. Consequently, overpayments escalated. Investigations were launched, accusations abounded and promises of tighter regulations appeared. This sensationalism overwhelmed VA officials and caused them to take drastic, uninformed, irresponsible and illegal action. The action taken by the VA is directed at IHLs and the education community has allowed this to happen without opposition.

Not wishing to be embarrassed further, the VA has shifted almost all veteran monitoring responsibility to participating institutions. The responsibility for educating the Vietnam Veteran has become secondary to complying with VA regulations. If institutions are snarled in VA paperwork, then the potential for irregularities exist at the institutional level. The policing of students' attendance practices and standards of academic progress is a responsibility of IHLs, not the VA. But the VA seems to think it is, and has taken steps to maintain this position. The question is, do they have the right to establish regulations that far exceed their scope of authority? (Chapter 36, 38 U.S. Code, Subsection 1780(h).)

Unquestionably, the VA does have a right and a responsibility to the taxpaying public to establish criteria for protecting their interest. But, should this responsibility infringe upon the rights and freedoms of individuals and institutions? One can not quibble with the need for some type of federal monitoring for fiscal and institutional responsibility. The institutions' prime responsibility, however, is to the students first, and the VA second. Unfortunately, the VA does not view the situation in the same way, and this is the essence of the problem to be addressed on the following pages. We urge you to become active in this most precarious and peculiar situation.

The establishment of nebulous regulations by the VA relative to school liability, attendance, and standards of progress is a gross infringement upon the policy-making authority of IHLs. The VA has placed the responsibility for student (veteran) accountability on the shoulders of the institution. It is not that IHLs are unwilling or unable to comply with these regulations because most are complying without question. The objection should be raised in relation to an institution relinquishing its self-determination.

Before consideration can be given to this aspect, it is necessary to consider the make-up of an IHLs programs of study. For example, if an IHL subscribes to courses of self-paced instruction, where class attendance is not an integral part of taking the course, what should be done? Courses of this nature are not acceptable to the VA because of the non-attendance policy. Should IHLs revamp all of their programs that use Personalized Systems of Instruction or similar approaches; or does it exclude veterans from these courses? It is incredible that IHLs are dealing with VA regulations every day and are not cognizant of these governmental infringements or the potential ramifications of vacuous compliance.

Conversely, what is the VA doing issuing regulations that usurp an IHLs policy-making authority? One might say that this is not the case, but previously cited instances indicate otherwise. Relative to standards of progress, the VA has stated in VA Transmittal, August 5, 1975: "Many schools have acceptable standards but most have not been filed with the State Approving Agency as approved criteria. Also, in some cases, these standards have not been enforced or the school has failed to notify the VA when a veteran or eligible person ceased to maintain satisfactory progress in accordance with their standards. Schools which have not previously filed acceptable standards of progress will be given a reasonable time (to do so . . .)"

Who or what is to define "satisfactory progress" and by what standards? Is there a commonality among IHLs that allows for a common denominator of "satisfactory progress"? Each institution has minimum Quality Point Average requirements and other academic sanctions peculiar to itself; and procedures for eradicating deficiencies in order for the individual to maintain his/her attendance within the institution. Will VA regulations usurp these policies and procedures?

There are other areas of VA regulatory infringements, definition of independent study, contract hours vs. credit hours, and in the light of the Privacy Act of 1974, the inspection of student records. Relative to this point, the issue of the VA inspecting records at random is an invasion of privacy, not only the veterans but also other students. Unless an IHL maintains separate filing facilities for veterans, other students privacy is infringed upon. The legal opinions of the Department of Health, Education, and Welfare (DHEW) counsel and the Department of Justice have indicated that authority for inspection is covered by Section 438(b)(1)(D) General Education Provision Act. This "excepts parties seeking information in connection with a students application for or receipt of, financial aid."

The opinion further states, "we believe that veterans benefits constitute financial aid within the meaning of section 438(b)(1)(D)."

The financial aid aspect of G.I. Education benefits is a curious one. For the purpose of inspecting records or policing the student, the G.I. Bill is financial aid. But, for the purposes of avoiding judicial review, the G.I. Bill is a "gratuitous benefit". It can not be both and it is time someone sought a single, concise definition of just which one it is.

If it is financial aid and this definition allows for the establishment of standards of progress and the inspection of student records, does this not allow other financial aid programs the same privilege and latitude? But, if it is a "gratuitous benefit", then the standards of progress and inspection of records question is moot. As it now stands, IHLs open the record cabinets to VA people without questioning from where the authority for such inspection comes. This is dangerous and if allowed to continue may lead to a widening of government influence over IHLs. The entire VA-IHL relationship is evolving into a game of "Simon Says" with the VA being "Simon". The continuation of this situation is detrimental to all parties, the VA, the IHL and especially the veteran in school.

It is detrimental to the VA in particular and the federal government in general because its regulations are precedent setting and indicative of future governmental intrusion into IHL policy-making authority. The VA method of crisis management in establishing regulatory procedures is similar to DHEW's in that they regulate without IHL consultation. Therefore, they write regulations that are antithetical to institutional policy and place IHLs in a precarious position. Precarious because if they comply without question they violate their own policies and if they do not comply they jeopardize the students and themselves. Neither position is tolerable and/or acceptable. IHLs have raised serious questions about the ability of DHEW to regulate in its present manner relative to Title IX and others. DHEW, also, has doubts about its authority to regulate in its present manner and has indicated a willingness, because of necessity, to re-evaluate in consort with higher education, then why not the VA? This is even more cause for concern because higher education is not the VA's area of expertise. In fact, one would have to agree that, the judgment of a government agency whose familiarity with higher education has been acquired through "haphazard involvement" is at least questionable.

Why, then, have they not been questioned? Could it be that, IHLs do not understand the implications of complying with VA regulations? Or, is it easier to acquiesce to the bureaucracy than it is to protect one's policy-making authority?

Although the text of this paper is devoted to "institutional liability" as defined by the VA and its associated ramifications one should not lose sight of the fact that IHLs are not lilly white and free from responsibility for the liability question. If one wishes to trace the evolution of the G.I. Bill method of payment and the reasons for payment changes, one would see how IHLs sought to feast on the post-World War II G.I. student boom. Consequently, it is not surprising that the Federal Government once again scrutinized IHLs who have veterans on campus. Only this time, it is the IHLs who are caught in the federal squeeze via institutional liability.

IMPLICATIONS AND RECOMMENDATIONS

Establishing a "fall-guy" serves no purpose because it has already been pointed out that the VA is a large contributor to the existing situation of overpayments and institutional liability assessments. But, to dwell on cause and effect serves no useful purpose. The fact of the matter is, a dangerous situation exists that needs immediate attention. For, while the VA, IHLs and Education Associations toss the issue around, the Vietnam Veteran becomes, once again, the focus of the controversy, unjustifiably so. The question is how can the situation be rectified to avoid further smearing Vietnam Veterans, to remove the IHLs from unlawful governmental scrutiny and get the VA out of its over-involvement in educational policy-making.

It appears that the only avenue available to accomplish these purposes is judicial review. Of course, there is an inherent danger in this pursuit—someone will win and someone will lose—obviously. But, the questions to be dealt with are of a magnitude and complexity that warrant this approach. It is the only way they can be resolved. Further delay will only cloud the issues and whereas the issues have implications that present the potential for expanded governmental intervention, they must be addressed now! Much is at stake, and uppermost in importance is the integrity of IHLs, the degree to which the VA or any other government agency may superimpose itself on IHLs and, is the G.I. Bill financial aid or a "gratuitous benefit"? This final point may be the deciding factor in the resolution of the preceding issues. The final question is, Will IHLs be independent entities or will they be serfs in the VA kingdom? Only IHL action can prevent this from happening, swift action before they become another casualty of the bureaucracy.

[From Milwaukee Journal, Milwaukee, Wis., May 20, 1977]

IN THE STATE 7 'STUDENTS' CONVICTED

Milton, Wis.—AP—Seven men who were formally enrolled at Milton College—but attended few if any classes—have been convicted in federal court in Chicago of fraudulent receipt of veterans benefits.

William Coulson, an assistant US attorney in Chicago, said the FBI was still investigating the college's role.

The seven men, ranging in age from 33 to 47, pleaded no contest to the misdemeanor charges and were placed on two years probation. They agreed to repay the money.

A prosecutor said that the men were enrolled at Milton during the 1975 summer session and both semesters of the 1975-76 school year. They qualified for benefits ranging from $270 to $410 a month but never attended classes or took exams.

Instead, the prosecutor said, they worked full time for the Federal Aviation Administration at the Greater Rockford (Ill.) Airport.

CLEVELAND STATE UNIVERSITY,
OFFICE OF THE PRESIDENT,
Cleveland, Ohio, April 28, 1977.

Hon. RONALD M. MOTTL,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN MOTTL: It has been my hope during this session of the Congress that a review would be made of several of the regulations of the Veterans Administration stemming from PL 94–502. Regulations proposed by the V.A. cause undue hardship and expense for the universities governed by them, and I believe that these regulations have little effect upon the veteran while increasing greatly the work of university registrars and the filing cabinet needs of the V.A. Even though recently modified by the V.A., these regulations still do not make managerial or financial sense. Specifically, I refer you to two areas:

The so-called 85/15 rule added at the last minute to P.L. 94–502 requires the quarterly evaluation of enrollments in every single major to ensure that programs are not operated solely for veterans. Designed, we assume, to protect against fly-by-night proprietary schools that prey on veterans, the 85/15 rule is supererogatory at an accredited university. We believe that the Government's purpose would be served by an annual certification in this area.

The Veterans Administration has also required universities to calculate and certify quarterly that veterans are making adequate progress toward a degree. I submit, first, that such a time-consuming task is the responsibility of the V.A. and not the University. Second, the normal academic standards of the University, taken together with the quarterly requirement to complete the hours undertaken, protect the V.A. against abuse by an unscrupulous veteran.

Our expenses associated with V.A. regulations have increased drastically in the last few years. A recent national report indicated that institutions of higher education incur $46.00 of expense per veteran. Our own estimate of expense is somewhat lower, $40.00. We receive $6.00 per enrolled veteran to cover our administrative costs and then find that acceptance of this money obligates us to strict liability for even minor errors in carrying out the complex procedures associated with veterans' enrollment.

I hope that this note will encourage you as a member of the Committee on Veterans Affairs to reconsider the appropriateness of current law as it governs the obligations of colleges and universities. If there is further information that we can provide on these matters for you, I shall be happy to do so.

With kindest personal regards, I am,

Sincerely yours,

Walter B. Waetjen, *President.*

An Address to the National Association of Veterans' Program Administrators by James J. Rhatigan, Vice President for Student Affairs and Dean of Students, Wichita State University, Wichita, Kans., Feb. 6, 1977, Sheraton-Park Hotel, Washington, D.C.

I appreciate having an opportunity to meet with you this evening. After some initial hesitation born out of a recognition that you are better informed than I about veteran-related issues, I accepted because I felt it would have been irresponsible to have refused. I am deeply concerned and it seems appropriate to talk about it.

Every American campus is going to be affected by recent decisions made by the Congress and the Veterans Administration. As federal intrusions on the campus grow they become more ominous, and every precedent unchallenged invites yet another intrusion. Institutional autonomy, with all its shortcomings, is far more preferable than a system of higher education owing its life and fortune to the federal government.

Our only choices, it seems to me, are to quietly comply in the hope that the dollars will keep flowing, to resist in every way possible, or to participate in helpful ways that will protect the uniqueness of every campus while assuring the federal government that its dollars are being spent properly. The format of this meeting suggests the latter course, and I am happy to have an opportunity to set the stage for the forum that will take place tomorrow. There are a number of critical issues that need to be addressed openly and thoroughly.

Certainly I did not come half-way across the country to simply criticize the Veterans Administration or the Congress. That would have all of the impact of a mosquito attacking an armored car and would not be appropriate in any general sense. The Veterans Administration and the Congress must be disappointed in the performance of higher education with respect to veterans benefits or we would not be facing the issues to be addressed at this conference. We must be responsive to them, accountable for what we do or say we do, as they are responsible for the allocation of these resources. Regrettably, mistrust abounds. Perhaps this conference will serve as an identifiable beginning for reversing the situation.

It is imperative that we alter the growing notion of veteran as villain and restore him/her to the status of valued student-citizen. We are tending to demean veterans as a group when only a few should be targeted; we are disciplining all of higher education when only a few unscrupulous entrepreneurs are guilty of misconduct; we are tearing at the fabric of institutions whose autonomy from the federal government is essential; and we are doing these things not only in ignorance of what they mean now but what they will mean in the future if these challenges are not met and reversed. It is far from melodrama to point out the likelihood of higher education as the proverbial puppet on the federal string. If this be the outcome, who will claim the hollow victory?

These opening comments may seem unduly pessimistic, so I must hastily indicate some things that are more heartening, including, (1) the ambitions of this assembly, (2) a new Congress, a new President, and his new Executive officers, (3) the general efficacy of higher education in the United States, and (4) a faith that, given the opportunity to work in collaborative and cooperative ways, people will do so.

It is perhaps the chic thing these days to point to the "system" as the principal reason for our individual and collective problems. We should be as quick to point out that millions of Americans have benefited enormously from a system that created the G.I. Bill of Rights more than thirty years ago, a system involving shared concerns and mutual effort, resulting in a superb program of education for millions of veterans. We have an important campus responsibility in maintaining the integrity of this longstanding program, which the "system" has provided.

It is up to us to earn—continuously earn—the respect that will quiet the apprehensions that have surfaced in the Veterans Administration and recently in Congressional enactments. Our longstanding partnership with the Veterans Administration is in disrepair and the problems arising out of it must be openly considered and resolved. Only then will the Veterans Administration be able to participate in Congressional relationships with real confidence and assurance—assurance gained from a view that you and I are performing as we should.

Since some of my later comments are critical of the Veterans Administration I feel it only proper to say something in its behalf. If some of you are angered by the depersonalization of the "veteran," a mere federal statistic, I wonder if we are not as guilty as we think of the "federal bureaucrat." This nameless, faceless personage is an irritation to all of us, we aver. If I am tempted to agree with any of you who might hold this view, my thinking is tempered by the federal bureaucrats I know personally. Certainly in the great scheme of things this number is not very large, but most of those I know seem to me to be responsive, intelligent, cooperative men and women. But in contrast to most of us here this evening, they have different problems, different pressures, different priorities, different kinds of accountability to face, and they must often work without the immense personal satisfactions accruing to those who work directly with student-veterans.

It may be time to accord them a name, a face, and a respect for their difficult position, to rid ourselves of some of the stereotypes we often attribute to them. This conference, and later conferences, can play an important though admittedly incomplete role in this respect. The theme of this conference is "share the burden;" hopefully a future conference will find "share the glory" an equally appropriate theme, as we look at the countless veterans who are learning, growing, achieving, enjoying, and fulfilling themselves as a result of their participation in higher education, a participation made possible by the people of the United States in recognition for service given in behalf of all of us.

It seems appropriate at this point to move from the generality of our situation to some painful problems that I can only hope are correctible. I must begin by noting that much of the higher education community is apparently unaware of some very disquieting requirements being placed upon it by the Veterans Administration. In my judgment the thin line between legitimate accountability and the infringement of prerogatives has been crossed. Unless these issues are faced—and soon—precedents established by the Veterans Administration may spread to other agencies of government. I will cite only three illustrations; let us hope that they are not indicative of other things to come.

The first of these issues carries the nomenclature, Standards of Progress. Every institution, in 1975, filed a statement with its State Approving Agency, different from any that had been filed previously, outlining institutional academic standards and practices in specific ways requested by the agency, for the Veterans Administration. On the face of it this made some sense, as these agencies would tend to be more familiar with institutions in their respective States than regional V.A. offices might be, and certainly they could attend to the problems of post-secondary institutions about which there might be some doubt.

I wonder now about the wisdom of supplying this detailed material, in view of some of the provisions of PL 94-502 which took effect on December 1, 1976, of which more will be said momentarily. It now appears that through State Approving Agencies, the Veterans Administration is going to substitute its judgment about institutional academic practices for that of the institutions which created those standards and practices. In effect, the Veterans Administration is challenging the validity of all of the major accrediting agencies in higher education, and it is doing so without adequate resources, without adequate knowledge, and without any right to do so.

This is not just a hypothesis: let me quote from a letter prepared by Mr. X to the president of Z State University. The writer, representing a State Approving Agency (and supported later in a confirming letter by the Regional Office of the Veterans Administration), informs the president that his institution must adjust its practices or lose its approval. Bear in mind that we are not talking about the College of Storm Door Repair but about *The* State University in that State, with a continuous history spanning more than eighty years. Among other things, Mr. X writes:

"1. An incomplete remains on the students' record if it is not made up by the next mid-semester. No credits are awarded for an "I" and therefore it is not considered in computing the quality point.

"2. Also a grade of W is recorded for all courses officially withdrawn after the drop/add period. The W is not converted to a grade nor figured in the quality point average.

"3. Moreover no quality points are awarded for an S grade and the courses are not considered in determining the quality point average."

All of the above, notes Mr. X, are in violation of V.A. regulations. The folly of this position is apparent, even contradictory to DVB Circular 20-76-84 sent to campuses a few months later. Mr. X apparently fails to recognize that three instances cannot be viewed in isolation of the entire academic scheme of things at that university as each institution seeks a "fit" for its students that seems appropriate and fair. The later circular, while clarifying the erroneous position of the Approving Agency, is even worse in its totality and I will return to its content in a moment as it has frightening potential.

Returning to Z State University, I have been informed that its problems have been cleared up and that, as of this moment, it will be approved. Some important questions remain, nonetheless. Why are the administrators of a university approved by the New England Association of Colleges and Secondary Schools justifying their academic standards and practices to the Veterans Administration, through a State Approving Agency?

One must also observe that these standards and practices were not established with the veteran student in mind, but apply to the student body as a whole. Why should the veteran student be singled out? Is the G.I. Bill a gratuity that must be humbly sought or is it an entitlement that has been earned? One would ordinarily just dismiss a letter written by an uninformed person remote from the campus. The consequences of ignoring Mr. X, of course, are obvious. It may be necessary to remind all concerned parties that the origination of academic standards and practices, historically, has been the prerogative of college and university faculty. Do we want to just timidly acknowledge this major departure from tradition, or do we want to confront the matter directly?

I think it is safe to assume that the College of Storm Door Repair will comply with directives, will change its grading practices, or do anything else it needs to in order to maintain its eligibility. The Veterans Administration may well find, however, that almost all of the long-established, conservative institutions in this country will balk at this intrusion. Put another way, those institutions seeking to protect their autonomy may suffer while the skillful game-players will roll merrily along.

I must spend just a moment now to talk about DVB Circular 20-76-84, Appendix O, carrying the title "Unsatisfactory Progress." The audit responsibilities expected of institutions, stemming from the circular, are incredible. Truthfully, I can't see how any institution with a sizable number of veterans could ever hope to comply with this regulation, even if it made sense to try.

Time does not permit a lengthy analysis of this unusual document, but let me say that it involves a requirement for reporting to the Veterans Administration the name of every student-veteran who is making "unsatisfactory progress." This determination is to be made by considering (1) the total hours the student needs to graduate, including the number to be repeated or otherwise made up; (2) the number of terms remaining based on the approved length of a course and the student's rate of pursuit; and (3) the maximum credit-hour load allowable per term based on school policy. A calculation based on these three criteria results in a determination of satisfactory or unsatisfactory progress. My institution has nearly two thousand veterans, for which we receive compensation in the amount of $5.00 each. Indications from your organization are that perhaps $40.00 more nearly represents institutional costs. I believe that if the Veterans Administration wants this information we will simply have to send them up dated transcripts for veterans each semester and let them figure it out, and this comment is not intended as sarcasm. I don't see how we can ever comply with this requirement, which is inappropriate on other grounds anyway.

As previously noted, these calculations may result in something called "unsatisfactory progress." That, along with a lack of "mitigating circumstances," will result in a suspension of benefits. In the exact language of the circular . . . "This is true even though the student otherwise meets the regularly prescribed standards of the school, including maintaining the minimum passing grades or required GPA or average grades."

But the most fearful language of this circular remains. To be reinstated, a student must submit to involuntary counseling. Please pay close attention to the following sentence of the circular, a sentence that must be etched on the mind of every concerned person on every campus: "If the VA counseling psychologist determines that the cause of the unsatisfactory progress has been removed and that the program that the beneficiary proposes is suitable to his or her aptitudes, interests, and abilities, benefits may be reinstated effective the date such conditions were met as determined by the counseling psychologist." No university in the United States having any sense at all accords this power to its own counseling staff, let alone anyone else in the institution. Certainly it will not surrender its rights, and the rights of students, to someone wholly outside the institution. Progress toward an undergraduate degree is a matter of academic performance, not one's rate of progress. If this circular is sustained, higher education will deserve the criticism that will surely be the result. Perhaps I might anticipate a response from those who wrote this document; they might say that this will not prohibit a student from proceeding, but that he/she will simply have to attend without veterans benefits. Let me say that such a position would possess no redeeming feature I can think of presently.

I believe we must also bear in mind that if these practices are accepted, other federal agencies may become involved, either from their own interest or the urging of the Congress. It is implausible to consider that work-study, BEOG, or SEOG might be next on the federal list? Ridiculous, you say. I hope so.

What else might we anticipate? Is it beyond reason to consider that entire areas of study might be deemed ineliigble or inappropriate for federal support, on the basis of criteria established by one or another agency here in Washington? I do not find it totally unlikely that someone may question the utility of a subject area for vocational purposes, thus leading to content area exclusions. Perhaps these assertions are foolish, but I would rather over-react and be wrong than under-react and be right.

A second issue involves Section 205 of PL 94–502. As enacted by the Congress, this heretofore limited requirement has been extended to all programs at all institutions. It stipulates that not more than 85 per cent of the students enrolled in a program within an institution can have all or part of their tuition paid to or for them by the Veterans Administration, or other federal agencies. Veterans enrolled in such programs would not be eligible for benefits. We have learned recently, as I understand it, that if no more than 85 per cent of an institution's total enrollment is comprised of veterans, the school will qualify for an automatic waiver. This gets most institutions off the hook, in the view of some people, but we need to look at the thinking which generated the 85–15 rule in the first place. Its ostensible purpose was to discourage institutions from offering low-quality courses solely to attract students receiving veterans benefits. Who should be more offended—institutions or veterans—for this evidence of mistrust? Have the 90+ per cent of higher education institutions in the United

States truly earned this lack of respect? If the motive is to protect students from unscrupulous entrepreneurs, why not focus on them directly? Note again here, that only veterans are affected by this regulation. One must return to to the concept of the G.I. Bill, which has been seen as an entitlement for service to one's country. It is becoming close to a paternalistic system administered from Washington, D.C. Section 205 of PL 94-502 must be rescinded, even if we are all "waived" at this point. It must be rejected on principle, as it demeans veterans who have served their country with honor, many of whom are pursuing an education at great sacrifice to their families in their pursuit of an education. If we wish to protect veterans from the unscrupulous, let us find some other way.

This brings me to my final illustration, institutional liability for overpayments. In general this issue subsumes the other two, as the hard facts are that the accountable use of federal dollars is what all of these issues ultimately involve.

This is a very complex issue in view of the time available to me, and I hope that it can be discussed more fully at the forum tomorrow. Perhaps no one factor is involved by itself in the vigorous attention the Veterans Administration is now giving higher education, but if I were to pick one I would select a GAO report to the Congress entitled, "Educational Assistance Overpayments, a Billion Dollar Problem—A Look at the Causes, Solutions, and Collection Efforts. I think the GAO was very badly served when this report was released, as one was led to believe from some public comments on the matter that the Government had been ripped off by Veterans in an amount approaching $1.5 billion. Now certainly that would get anyone excited.

The Veterans Administration also suffered criticism as a result of this publicity and the pressure (as I view it) on local institutions. The VA never had any problem in this area until the enactment of Public Law 92-540, The Vietnam Era Veterans Readjustment Act. This Act made possible: (1) The advance payment of initial educational assistance at the start of the enrollment period, and (2) the prepayment of subsequent benefits during the period of enrollment. Because of inevitable lagtime, the Act, by definition, is the reason for the overpayment problem, though admittedly, not the extent of the current problem.

We have no rip offs, 3 out of every 4 of these dollars has already been recovered. About $60 million of the $1.5 (4%) has been written off, waivered, compromised, or terminated. The remainder is still in the process of collection. Certainly some part of it will not be collected and this is the problem that the campus must be prepared to meet from now on with real effort.

You will have to pardon my sketchy treatment of a very complex report, but what matters here is the action the VA may have felt it had to take to remedy the problem, henceforth, under certain conditions, institutions may be held accountable for overpayment of veterans. We will be faced with new concepts (willful or negligent failure) as well as other unfamiliar legalizing. In order to protect itself, an institution may now be forced to set veterans apart as a class, keeping tabs on them in order to protect the institution's pocketbook. This seems unduly oppressive, though admittedly, we have not felt the pinch as yet.

All of these matters seem truly unfortunate if we can believe—as I do—that all the Veterans Administration wants to do is to say to the Congress that it has taken care to assure that federal dollars are being used in the way they were intended. Perhaps my views here are more conservative than yours. It is clear to me, however, that the United States, represented by the current Congress and the Veterans Administration, owes veterans only what the law stipulates and nothing more. The G.I. Bill is not a welfare system; it should not protect any veteran who subverts it to his/her own purpose.

We will need to work in every way to protect the rights of veterans, and we should not allow them to be viewed in ways that single them out as a class. We shall always recognize that the preponderance of veterans act with integrity, honesty, and sincerity. But we must be equally involved in assuring that no campus veterans can hand us some shabby rationalizations concerning their poor performance and expect our support. We are all on the carpet in this respect, and we must engage ourselves in the task of regaining credibility, even while we argue about the validity of the present criticism that is all too apparent.

Let me include one parenthetical thought before I close. We must acknowledge the excellent work done on campuses through the funding of the Veterans

Cost of Instruction Program funded by the Department of Health, Education, and Welfare. The men and women working in this program have done a marvelous job with minimal dollars. I think that our campus veterans have been wonderfully served in this way and I hope that this program will continue to be supported. Those of you here this evening fully appreciate that funding has been only at the eight per cent level this year and that President Ford did not ask for funding in the pending federal budget. I hope that the present Administration will reconsider this item, a definite bright spot that is tremendously appreciated and is deserving of support. If these campus officers disappear, our problems are going to be even more difficult to resolve than they appear to be now.

Perhaps this has been a down-beat presentation. No doubt any explication of problems qualifies as down-beat. I genuinely hope that it has not been an unfair presentation.

I must close by suggesting again that it is our responsibility to work with and stand by the Veterans Administration. It is their responsibility to use the reservoir of available talent that would like to help solve problems but is totally frustrated. This working conference can serve as a useful beginning and I hope that it will.

Let me offer one comment from T. S. Eliot as we seek to work better together, recognizing that tomorrow labels, titles, agencies, offices, and other territorial problems, may get in our way. Eliot said: "There's always something one's ignorant of About anyone, however well one knows them. And that may be something of the greatest importance."

Thank you for your thoughtful attention.

Mr. Mottl. Thank you very much for attending. The subcommittee now stands adjourned.

[Whereupon, at 12:07 p.m., the hearing was adjourned.]

REVIEW OF PUBLIC LAW 94-502, THE VETERANS' EDUCATION AND EMPLOYMENT ASSISTANCE ACT OF 1976 AND THE VETERANS' EDUCATION AND TRAINING PROGRAM

WEDNESDAY, APRIL 20, 1977

U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON EDUCATION AND TRAINING
OF THE COMMITTEE ON VETERANS AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 340, Cannon House Office Building, Hon. Ronald Mottl (acting chairman) presiding.

Mr. MOTTL. Today the oversight hearings on veterans' education and training programs continue.

Yesterday the subcommittee received testimony from officials of the educational associations, institutions, and colleges.

Today, the subcommittee is scheduled to hear testimony from a number of witnesses, including representatives of veterans organizations.

The subcommittee will hear further testimony from two of yesterday's witnesses, Mr. Cecil Byrd of the National Association of Veterans Program Administrators and Mr. Lloyd Davis of the National University Extension Association, after receiving testimony from representatives of veterans organizations.

With the consent of the ranking minority member, Mrs. Heckler of Massachusetts, it has been decided, and without objection, that we will hear the various representatives of the veterans organizations, along with Mr. Byrd and Mr. Davis, and we will allot ten minutes to each, and then we will ask everybody to come in a panel and then they will be subject to questions from the the members of the subcommittee.

I think that will be a much more equitable way of doing it, rather than the way we attempted it yesterday.

So our first witness that we will hear from will be Mr. Donald Schwab, director of the national legislative service, Veterans of Foreign Wars, Washington, D.C.

Mr. Schwab, so if you will submit your statement, or read it, or whatever you feel more comfortable doing, but if you would just keep it to 10 minutes, we would certainly appreciate your cooperation.

STATEMENT OF DONALD SCHWAB, DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS

Mr. SCHWAB. Thank you, Mr. Chairman. Thank you for the privilege of presenting to this distinguished subcommittee the views of the Veterans of Foreign Wars of the United States with respect to that portion of Public Law 94–502, the Veterans Education and Employment Assistance Act of 1976, addressing educational benefits.

First, let me state the Veterans of Foreign Wars was highly gratified by the provision of Public Law 94–502 which removed the restriction to undergraduate work imposed on the 9-month extension granted by Public Law 93–508, fulfilling one of our priority legislative goals. As you are aware, the VFW opposed this restriction, both when H.R. 12628 was being considered, and, again, when the Congress overrode the Presidential veto of the Vietnam Era Veterans Readjustment Assistance Act of 1974.

Another desirable feature of Public Law 94–502 is the tightening of advance payment procedures. Effective June 1, 1977, the student must specifically request advance payment on the enrollment certification or a separate document attached to the enrollment certification. This requirement should keep overpayments in check. Previous overpayments totaled $1 billion, and according to the Veterans Administration as of this past January they had recouped over half with a $436.8 million outstanding.

The VFW finds little fault with the provisions of Public Law 94–502 as presently being implemented by the Veterans Administration. As a matter of fact, the few complaints we have had from veterans, those for whom the educational program is primarily designed to assist, is that authority to pursue postgraduate work under the previously cited 9-month extension came too late for some. The preponderance of complaints have come from institutions of higher learning and those persons whose employment may be contingent upon the continuing flow of veteran students.

It has been alleged by some institutions that the 85–15 rule, the 2-year rule and the reporting requirements are too stringent. The 85–15 rule is neither alien nor new to VA educational programs. The necessity of its imposition by Public Law 550, 82d Congress, the Veterans' Readjustment Assistance Act of 1952, was brought about due to abuses in the World War II GI bill by proprietary profit schools below the college level with enrollments as high as 90 to 100 percent veterans.

Public Law 93–508, the Vietnam Era Veterans' Readjustment Act of 1974, extended the 85–15 rule to accredited courses not leading to a standard college degree. More recently, exempted courses leading to a degree and courses by public institutions promoted the designing of curricula and the establishment of college branch locations and some junior college with the sole purpose of attracting veterans. Thus, the provision in Public Law 94–502. History of the 2-year rule nearly parallels the 85–15 rule, since the first such restriction was contained in Public Law 266, 81st Congress, the Independent Offices Appropriation Act of 1950.

At this point, and in all fairness, it is incumbent upon me to state the VFW was initially concerned with the rigidness of the 85–15 rule. In view thereof our director, national veterans service, Robert L. Ashworth, addressed a letter to the Administrator of Veterans Affairs on January 14, 1977 expressing our views. Shortly thereafter, on January 26, the Chief Benefits Director of the VA issued instructions waiving the 85–15 rule for schools having 35 percent or fewer students receiving VA educational benefits, if the station director has granted the waiver without reservation.

Inasmuch as neither the 85–15 rule nor the 2-year rule seem to be a major problem to 95 percent of the schools, it would appear those to which they are an impediment are the very institutions the law is intended to restrict.

There is one area, however, where educational institutions may have a tenable complaint and that is with respect to reporting fees. The increase from $3 to $5 per student for regular reports, and from $4 to $6 per advanced paying student, appear rather small considering the work involved. We believe reporting fees could be increased to more nearly reflect present-day high administrative costs.

The fact that the present educational program is working well for the veteran is borne out by the fact there is a high completion rate among those enrolled in colleges pursuing undergraduate work in standard 4-year courses, and also for those enrolled in 2-year vocational rehabilitational courses.

In conclusion, Mr. Chairman, we commend you and the subcommittee for holding these oversight hearings to afford those who believe that they have been aggrieved an opportunity to state their case.

I thank you. I will be willing to respond to any questions.

Mr. Mottl. Thank you very much, Mr. Schwab, for your testimony. If you would be kind enough to wait around and we will hold the questions in abeyance until we have the other witnesses, and then we will have a panel type of questioning at that time.

Mr. Schwab. Yes, sir, I might mention, I am scheduled to appear at another subcommittee hearing this morning.

Mr. Mottl. All right. Why don't you go ahead and make that hearing, and if you can come back then we will probably be in session I imagine, until around noon.

Mr. Schwab. All right, thank you, sir.

Mr. Mottl. Thank you very much, Mr. Schwab.

Next, we will hear from Mr. William E. Lawson, Servicemen's Opportunity College, American Association of Community and Junior Colleges of Washington, D.C. Mr. Lawson.

STATEMENT OF WILLIAM E. LAWSON, AMERICAN ASSOCIATION OF MINORITY VETERANS PROGRAM ADMINISTRATORS; ACCOMPANIED BY JULIUS THROWER (AAMVPA)

Mr. Lawson. Thank you, Mr. Chairman. I would like to correct the record, in that I am representing the American Association of Minority Veterans Program Administrators.

Mr. Mottl. This will be corrected.

Mr. Lawson. Mr. Chairman and members of the subcommittee, I am William E. Lawson, chairman of the board of directors of the American Association of Minority Veterans Program Administrators and a Vietnam veteran. In addition, I serve as the associate director of the Servicemen's Opportunity College, a concept designed to establish a network of colleges and universities to improve educational opportunities for men and women in military service.

I am also charged with the responsibility of interpreting laws, proposed legislation, and regulations as they pertain to veterans' affairs for over 1,500 educational and training institutions and a substantial number of noneducationally related veterans' affairs programs.

I am accompanied this morning by Julius Thrower, vice-chairman of AAMVPA. Mr. Thrower also serves as the director of veterans' affairs at S. D. Bishop State Junior College in Mobile, Ala.

Mr. Chairman, once again I would like to take this opportunity to thank the members of this subcommittee and the Veterans' Affairs Committee staff for affording AAMVPA this opportunity to appear before you this morning. AAMVPA's constituents are veterans seeking direction and the necessary skills needed to make constructive contributions to the greatness of this country. We also provide the professional and paraprofessional with many of the tools needed to make many of the goals and objectives of those veterans a reality. Needless to say, the vast majority of the veterans we serve are from economically and educationally disadvantaged backgrounds who have smoldered in the depths of this Nation's inner cities, ghettos, and barrios.

Mr. Chairman, we are aware of the fact that the Veterans' Education and Employment Assistance Act of 1976, Public Law 94–502, is a precedent-setting law in that it is the first time in the history of this country that we have had a peacetime GI bill. The GI bill has played a major role in assisting minority veterans seeking constructive upward mobility. Had it not been for the education and training programs under the GI bill many minorities would not have entered the military, nor would they have aspired to the heights of success as a result of the utilization of their education and training benefits.

In all candor, Mr. Chairman and members of the subcommittee, I can honestly say had I not earned GI bill entitlement I would not be sitting before you this morning articulating the effects of GI bill entitlement on the minority communities of this Nation. The chances were greater than I, at this stage in my life, would have been sitting before a similar bench, but with the chairman wearing a black robe. I make this point only to show that the environment which most minority people come from, for the most part, is conducive to the kinds of activities that would eventually bring one before "The Man." In short, Mr. Chairman, the GI bill has been the staff of life for the minority veteran community once they have become aware of the opportunities available.

Mr. Chairman, certain provisions of Public Law 94–502 have caused serious problems for minority veterans and those coming from low-income backgrounds. These provisions are the 85–15 ratio requirement and the 2-year rule.

The 85–15 rule is causing serious problems within the low-income educationally disadvantaged communities. Under the 85–15 provision the minority veteran not only must seek out an institution conducive to his or her needs, for example, low tuition, varied curricula, and various other student services, but the veteran must now make sure that the various courses of study do not exceed the 85–15 ratio. Many minorities seek educational opportunities close to home for a number of reasons: They can ill afford to relocate because of high cost of moving, relinquishing the moral and financial support that may be rendered by relatives, or most importantly, giving up a job that provides a major support for the family. Therefore, these factors and others make it extremely difficult for the minority veteran to utilize earned entitlement under this provision.

Although there is a waiver for "educationally disadvantaged-type course," not all minority/low-income veterans remain educationally disadvantaged. Those that do achieve academically find it a much greater task to shake the bonds of their economically disadvantaged living conditions and background. Once the minority veteran achieves beyond what is classified as educationally disadvantaged, he or she then becomes a part of the 85–15 computation, which means that the veteran is no longer covered by the VA waiver.

This provision, then, could force many veteran students, particularly minority veteran students, into programs or courses of study not of their choosing simply because courses such as physics, electrical engineering, mathematics, biochemistry, and others that minority students as a whole find themselves academically unprepared for, are the only ones open to them.

Mr. Chairman, some might say if utilizing earned GI bill entitlement presents such a problem for economically and educationally disadvantaged veterans, why don't they use other forms of student aid? I would point out to those persons that there is a certain amount of pride among those men and women who served this country. To us, there is a difference between student aid and earned entitlement. In addition, many find it extremely difficult to qualify as a result of having to work and/or receiving entitlement.

Mr. Thornton, director of the education and Rehabilitation Service, appeared before you on March 29, 1977, and provided data pertaining to decreases in veterans' enrollment primarily based on projections through fiscal year 1978. VA testimony indicated that they have 2,950,714 total trainees. Projected figures for 1977 are 2,189,005, and for fiscal year 1978 2,004,600. Comparing fiscal year 1976 to fiscal year 1978 those figures represent a 32 percent decrease in total trainees. Total training costs in fiscal year 1976 were $5,300,007,000; this compares to a fiscal year 1978 projection of $3,983,452,000, or a decrease of 25 percent from 1976 to 1978. Thornton testified that the potential for abuse in our present program has been greatly curtailed largely by many of the provisions of Public Law 94–502. Two of these provisions are the 85–15 rule and the 2-year rule, he said.

At this time, Mr. Chairman, I would like to point out to you that a vast portion of the decline in trainees and the decline in costs are attributable to a number of other factors, the delimiting date, student attrition rates, and personal problems that might have caused a veteran to withdraw from education or training programs. The delimiting date alone eliminated nearly 500,000 veterans from the rolls of educational and training institutions since May 31, 1976.

Many institutions of higher learning are making attempts to serve many of our Nation's undereducated, and in doing so have branched out to physically locate themselves in various communities. For the most part, Mr. Chairman, this is good, especially for the minority communities. However, we are not so naive as to not know that the potential for abuse is a consideration that should concern us all.

Mr. Chairman, it is my understanding that the Veterans' Administration will be cutting back on their vet. rep. on campus program. If this should happen, this will do a tremendous disservice to our Nation's veterans. Once again, if the vet. rep. on campus program is properly utilized we can constructively resolve a good deal of the problems confronting the VA education program. Although utilizing the vet rep is not the total answer, it does provide a starting point, using a mechanism already in place.

Finally, if we had dropped the bomb on Japan the day after Pearl Harbor, December 8, or on Hanoi in 1964, or on Cuba in the early sixties, just think of all the American lives and money that would have been saved. We did not, because it did not appear to be the rational thing to do and all the alternatives for settlement had not been explored. If rationality is a part of the posture of this country, then why have we dropped the bomb on the majority of veterans and educational institutions of this country without seeking possible alternatives to solve the problems facing us today?

Mr. Chairman, this concludes my statement.

Mr. MOTTL. Thank you very much, Mr. Lawson. Mr. Thrower, do you have anything to add?

Mr. THROWER. Not at this time. I will serve on the question and answer panel.

Mr. MOTTL. Right. Thank you very much.

Next we will hear from Mr. Dennis McClure, national service and legislative director, AMVETS, Washington, D.C.

All right, he is at the other hearing, and we will come back to Mr. McClure.

Mr. Frank E. G. Weil, national secretary and chairman, Veterans' Affairs Commission, American Veterans Committee, Mr. Weil.

Mr. WEIL. Thank you, Mr. Chairman. I am accompanied by Mrs. June Willenz, the national executive director of the American Veterans Committee, who has been instrumental in preparing the testimony, and who is widely recognized as an authority on the administrative discharge system.

With your permission, Mr. Chairman, I will submit the testimony and a couple of attachments, including our platform, for the record.

Mr. MOTTL. Yes; without objection they will be submitted into the record. The Chair hearing no objection, they are so submitted.

[The statement follows:]

PREPARED STATEMENT OF FRANK E. G. WEIL, AMERICAN VETERANS COMMITTEE (AVC)

Chairmen, and Members of the Committees: The American Veterans Committee is pleased to have this opportunity to testify before your committee regarding the educational benefits for Vietnam era veterans, particularly those amendments contained in PL 94-502. My name is Frank E. G. Weil; I am the National Secretary and Chairman of the Veterans and Armed Services

Commission of the AVC. I served in the U.S. Army during World War II as a Special Agent Counter Intelligence Corps, and am a member of the bar of the District of Columbia and the State of New York.

AVC has been deeply committed to the goal of legislating an adequate GI Bill of Rights for Vietnam era Veterans. We have been on record as strongly in favor of such an educational benefits during the early years of the Vietnam War. In 1966, we testified strongly in favor of a GI Bill for Vietnam vets and were pleased to see passage of PL 89–358 which was enacted on March 3, 1966 during the 89th Congress. In March 1972, AVC convened a national conference on the "Educational Problems of Vietnam era Veterans" to focus national attention on the inadequacies of what was available to Vietnam veterans and to develop proposals for new programs that would provide the kinds of educational benefits that this nation owed these veterans. Many of the suggestions from that Conference became part of the GI Bill legislation passed in 1972 including PREP, advance payments, tuitional assistance.

Since its founding, AVC has maintained that rehabilitation and integration of veterans into the community "is the proper scope and purpose of a veterans program." AVC believes that military service is an obligation of citizenship, but that the nation also has an obligation to the veterans who have served their country to help them reenter society and take up their roles as productive, taxpaying members of the community. The GI Bill of Rights, formulated after World War II, was designed to help veterans make up for "time and opportunities lost." We have continued to believe that the veterans of the Vietnam War deserve no less, and have consistently urged that their benefits programs be equivalent to those offered veterans of previous wars.

We would like to call your attention to the policy position of AVC on the GI Bill which was adopted at our last Convention:

(5) G.I. BILL

AVC applauds the passage of a permanent G.I. Bill of Rights as a responsible means of enabling servicemen and women to return to civilian life with facility and ease at the end of their service and become useful and productive members of their communities. We also applaud the recent passage of legislation improving the benefits provided through the G.I. Bill of Rights.

However, we feel that benefits are not yet in line with the World War II and Korean War G.I. Bills and the current cost of living. Unfortunately, many existing programs remain unavailable to veterans because of the financial stress they now entail, or are available only at great sacrifice. This is particularly true in the area of educational programs.

AVC urges the Congress to further adjust benefits to match current costs of living and education.

The G.I. Bill of Rights should be administered in such manner as to guarantee the absence of discrimination.

AVC believes that experience has shown that the federal funds used to pay educational benefits for veterans have been repaid to the Treasury many times over in the form of higher income taxes collected from those whose education, financed by the GI Bill. has resulted in higher earnings. In addition, AVC believes that, as an incentive to enlistment in a volunteer army, educational benefits are, in the long run, better both for the individual and for society than the same sum used directly to increase military pay. For the foregoing reasons, among others. AVC urges the continuation of reinstatement of in-service and post-service educational benefits.

At this Convention in June 1976, AVC also recognized many of the inadequacies of the educational benefits program that was available to Vietnam era veterans. We had been hearing from Vietnam veterans in our own organization and from other organizations representing Vietnam veterans, the NACVI, NAVPA, AMPVA: and ad hoc veterans groups around the country, of the many difficulties Vietnam era veteran-student were having in using their GI Bill, of the inadequate financial assistance, of the imposition of different standards for veteran-students than for other students, of the lack of counselling and career services, of the lag in receiving benefit checks, of the restrictions on educational choices and many others. At this 1976 Convention, we passed the following resolution calling for further legislation to remedy the existing GI Educational Benefits Program:

RESOLUTION ON VETERANS BENEFITS AMENDMENTS

AVC favors the following amendments to Veterans Benefit legislation:

(1) An increase in education benefits to parity, in terms of current cost-of-living and cost-of-education dollars, with the benefits given World War II veterans.

(2) Permanent legislation providing for automatic cost-of-living and cost-of-education adjustments, with a formula similar to that which adjusts military and civil service retirement pay;

(3) Making it possible for veterans to attend college-preparatory or remedial programs without reducing the duration of their entitlement.

(4) Tightening standards for approval of correspondence schools, including requiring equitable tuition refund policies;

(5) Reducing clock hours requirements for attendance at non-profit community and vocational schools;

(6) Making NSLI Trust Funds available as a revolving fund to finance veterans educational loans;

(7) Veterans education assistance allowances should be amended to provide a system of direct payments to institutions of higher education for costs of tuition, books, and fees to supplement the subsistence allowance of veterans.

(8) Expanding outreach programs on a contract basis, with adequate safeguards against boondoggles.

(9) Entitlement provision for veterans benefits which have been extended to 45 months should include graduate study.

(10) A provision for speeding up and improving the delivery system of educational benefits being paid to veterans.

(11) The General Accounting Office (GAO) commence an immediate review of the following areas:

(a) vocational and technical schools

(b) VA Housing loan programs and policies and

(c) VA work study programs in order to assist the VA and Congress towards improving services for the Vietnam Era veterans.

(12) Resolved that AVC urges the adoption by the government of an adequately funded direct loan program to veterans for the purchase of land for use in building a personal home, for the construction of such a home and/or for small businesses, instead of the VA guaranty program now in existence.

Furthermore, AVC felt that the Vietnam-era veterans themselves should have a prominent role in the formulation of programs that were supposed to benefit them. To this end, we passed this resolution:

RESOLUTION ON VIETNAM ERA VETERANS

I. AVC urges the Federal government to provide the Vietnam era veteran a significant role in the planning and implementation of all programs, policies and agency actions affecting the Vietnam era veteran.

II. AVC urges the federal government to provide follow-up psychological readjustment assistance to and for the Vietnam era veteran and his immediate family.

We were cheered when PL 94–502 (S–969) was enacted in October 1976. Some of its provisions in Title II responded to some of the problems we had identified in our resolutions. The 8% increase in educational assistance allowance under Chapter 34 of Title 38 was welcome, as was t[illegible] 8% increase in individual tutorial assistance allowance authorized for eligi[illegible]terans with deficiencies. We were particularly pleased that this legislation [illegible]ved the restriction of undergraduate use of the nine months additional be[illegible]ntitlement given in 1974, thus providing a maximum of 45 months of eligi[illegible] for an educational program, including graduate education.

However, we are concerned that other provisions in PL 94–502 have diminished the educational opportunities of Vietnam-era veterans. The negative impact on the veteran-students of these provisions and the regulations that the VA promulgated to carry out these provisions have been reported on extensively by Vietnam-era educational counsellors, post-secondary institutions, educational administrators, and the Vietnam-era students themselves.

While we support the Congress' and the VA's desire to prevent the bilking of veterans and the government by unscrupulous profiteers in the guise of "educational institutions," this understandable concern must not become a vehicle for throwing out the baby with the bath.

Some of the procedures regarding the "85-15 Rule", the "Standards of progress," the restrictions on course enrollment, the rigid requirements of attendance, all have contributed towards a discriminatory situation for veterans as students. These procedures set up two different classes of students: veteran-students and non-veteran-students, with the veteran-students being required to meet standards of achievement and attendance that the non-veteran students are not required to meet. Also, enormous administrative burdens have been placed upon the administrations of educational institutions by these procedures which in turn negatively affect the veteran-students.

It would seem that the VA procedures relating to standards of progress or accreditation of courses are an intrusion into educational policy that would best be left to the educational institutions themselves, and to the accrediting associations which monitor them. Their experience and expertise were not considered, as far as we know, in the formulation of these procedures. Also, we question whether the VA alone can or should determine "mitigating circumstances" of the student veteran's inability to meet the standards and requirements set forth in these procedures. Surely, educational institutions are in a better position to evaluate a student's progress and intent according to its standards than an outside administrative agency not grounded in educational policy or versed in the complex areas of new educational modes.

There are serious questions whether the rights to privacy of student-veterans and other students is being violated by the practice of random inspection of records at educational institutions, a practice which is entailed in VA procedures. Another question is the suspension of veterans benefits for failure to comply with the requirements set forth in these procedures is whether the veteran's right to due process is violated when no prior notice or hearing is granted prior to such suspension.

The Congress' and VA's laudable concern to reduce fraud and abuse of the GI Bill for Vietnam-era veterans must not be achieved at the cost of precluding many veterans from utilizing the GI Bill. While the tightening up of monitoring procedures may seem a logical way, the original intent of the GI Bill must not be lost. If more careful evaluation and accountability is needed, then educational policy-makers should be called in to participate in the development of appropriate procedures so that the student-veterans are protected and encouraged to take advantage of the GI Bill. Regional Advisory Councils should be formed to examine erring institutions and develop immediate remedies as situations occur.

We believe the intent of the Congress was to make more educational opportunities for veterans, not less. Therefore, we recommend a thorough and in-depth review of the current policies and procedures inviting input of educational and accrediting institutions and also having the input of the clients—the student-veterans themselves with the objective of formulating more rational and less discriminatory provisions and procedures that will be in the best interests of the veterans without infringing on the rights of the public.

We urge that a National Educational Task Force be set up to accomplish this review. The Task Force would include representatives of educational institutions and associations, the accrediting bodies, state departments of education and Vietnam era veterans and would provide major input into formulating new policies and procedures related to the educational benefits program for Vietnam era veterans. That Task Force should be convened as soon as possible by the VA Administrator to review the present inadequacies and criticisms of PL 94-502 and develop suggestions for remedial actions, both legislative and administrative, so that the present GI Bill of Rights for Vietnam era veterans can be more meaningful to those it was intended to serve.

In an era of increasing educational diversity where many new modes of non-traditional learning have emerged in the educational world, from learning-without-walls, to cooperative education, to continuing education, veteran-students should have the same basic opportunities as other students to find the particular framework that suits his/her needs and learning capabilities. The rigid criteria of older traditional modes are often not suitable in the learning situations of non-traditional settings. Yet, the non-traditional educational experience may be richer and more satisfying for many. Part of the genius of American education has been the pluralistic and diversified character of its offerings. We do not want to see the VA become a "Ministry of Education" in the European sense, any more than we want to see the Office of Education in that role, dictating what educational policies should be throughout the nation in the variety of educational institutions that are competing in the marketplace with a diversity of offerings for potential clients.

With the proper vehicle for dialogue and review, the public's interest as well as that of student-veterans can be maintained. Neither the VA nor OE, nor educational institutions themselves, should have the sole right to decide what is legitimate or acceptable in terms of educational frameworks. Input from all the interested parties is needed to come up with acceptable limits and safeguards for utilization of GI benefits which would not curtail educational opportunities for student-veterans. The proposed National Educational Advisory Task Force would be a continuing body which would advise and review procedures to protect the veterans, the schools, and the public.

In addition, the Regional Advisory Committees should be formed that would serve as consulting agencies to Regional VA Offices as they seek to administer national policies. It is important that there be as much uniformity in the interpretation of policies as possible, so that there is geographical equality of educational opportunity. Yet there are differences in regional institutions that need to be recognized. By having Regional Advisory Committees which would bring in the views and needs of the local institutions and the student-veterans, the Regional VA Offices would be in a better position to make interpretations of policies.

One of the problem areas reported to us by veterans in school is the need for continuing vocational counselling. Although the VA has 270 career psychologists, counsellors, and contracts out at 180 counselling services, the vocational counselling needs of the Vietnam-era veteran-students are not being met. With higher unemployment and limited job opportunities available to young people entering the job market, the veteran-students need from time to time to reexamine their career goals and reevaluate their educational and vocational directions. This is in line with general trends in our society, where changes of vocational directions and even career paths are a common occurrence. In view of the fact that veteran-students are generally older than their fellow students, and many already have family responsibilities, they have a different configuration of problems that need continuing attention. It is well known too, that the veterans of this war have had the particular psychological problems of Vietnam to deal with which have made counselling services particularly important. We urge this Committee, as it draws up its recommendations, to explore the possibilities of increasing the VA's counselling capability and to provide more contract services for veterans, both in school and outside the school environment.

We would like to address briefly Title VI of the PL 94–502 which sets up Post-Vietnam Era Veterans Assistance Act. AVC has endorsed the concept of a permanent GI Bill and would like to see a peacetime GI Bill provide educational opportunities for veterans the way the previous wartime GI Bill of Rights was. We question the two for one formula that is included in this Title because it discriminates against the lower-ranking service men and women, since proportionately their contributions would be much higher than those of higher ranking officers. If matching assistance is to be the vehicle for a peacetime GI Bill, then we suggest that a scaled schedule of contributions by service people according to their pay levels be instituted so that lower ranking personnel would have equal opportunity to utilize such a program. Since the purpose of this peacetime GI Bill is partially to "assist the all-volunteer military program in attracting qualified men and women to serve in the armed forces," the Department of Defense should contribute both monetarily and with services towards this educational assistance program. If this Title is to be used as an incentive to recruiting individuals into the all-volunteer force, then let the funding be considered part of the all volunteer army. Therefore, we urge that the Department of Defense be required, "rather than encouraged to contribute to the fund established for the service person."

Thank you for this opportunity to present the views of the American Veterans Committee to the Committee on this important subject.

STATEMENT OF FRANK E. G. WEIL, NATIONAL SECRETARY AND CHAIRMAN, VETERAN AFFAIRS COMMISSION, AMERICAN VETERANS COMMITTEE; ACCOMPANIED BY JUNE WILLENZ

Mr. WEIL. Thank you, Mr. Chairman, for allowing me to submit my statement which will save me from the tedium of reading much of it, and allow me simply to comment much more briefly.

The American Veterans Committee is pleased to have this opportunity to testify before your committee. My name is Frank E. G. Weil. I am the national secretary of the American Veterans Committee, and I also serve as chairman of their Veterans and Armed Services Commission.

I am a World War II veteran in the U.S. Army. I served as a special agent, Counter Intelligence Corps and am a member of the Bar of the District of Columbia and in the State of New York.

AVC has been deeply committed to the goal of legislating an adequate GI bill for Vietnam era veterans. Some of us feel a little bit embarrassed that we had so much more generous provisions following our service, as compared to the Vietnam veterans.

We have been, on the record, strongly in favor of educational benefits since the early years of the Vietnam war. In 1966 we testified strongly in favor of a GI bill for Vietnam vets, and we were pleased to see the passage of Public Law 89–358 in 1966.

In March 1972 we convened a national conference on the "Educational Problems of Vietnam era Veterans" to focus national attention on the inadequacies of what was available. Many of the suggestions from that conference became part of the GI bill legislation passed in 1972, including PREP, advance payment, and tuitional assistance.

Although we differ from some of the major old line veterans organizations in our view of what benefits should be derived by veterans who have not been wounded, we believe rather strongly that one of the things the Government should do is to assist the veteran to regain that place in civilian life he would have had but for his service.

In line with this we have always maintained that rehabilitation and integration of the veteran into the community is the proper scope and purpose of a veteran's program. We believe that military service is an obligation of citizenship, but the Nation also has an obligation to the veterans who have served their country to help them re-enter society and take up their roles as productive, taxpaying members of the community. We continue to believe that the veterans of the most recent unpopular war deserve just as much as the veterans of earlier and more popular wars.

Our testimony next quotes from our platform, and I urge the subcommittee to study it when it appears in the record.

At our convention we recognized many of the inadequacies of the educational benefits program available to Vietnam era veterans. We've been hearing from a number of Vietnam veterans in our own organizations, and from other organizations representing Vietnam veterans, NACVI, NAVPA, AMPVA, and ad hoc veterans groups around the country, of the many difficulties Vietnam era veterans were having using the GI bill, of the inadequate financial assistance, of the imposition of different standards for veteran-students than for other students, of the lack of counseling and career services, the lag in receiving benefit checks, the restrictions on educational choices, and others.

We passed a resolution at our 1976 convention which appears on page 4 of our statement and we urge the Subcommittee to read it.

Furthermore, we felt that the Vietnam era veterans themselves should have a prominent role in the formulation of programs that were supposed to benefit them. To this end we passed another brief resolution which I will read.

> **AVC urges the Federal Government to provide the Vietnam era veteran a significant role in the planning and implementation of all programs, policies, and agency actions affecting the Vietnam era veteran.**

Two, AVC urges the Federal Government to provide follow-up phychological readjustment assistance to and for the Vietnam era veteran and his immediate family.

I might add parenthetically that we consider the appointment of a Vietnam era veteran to be Veterans' Administrator a great step in the right direction.

We were cheered when Public Law 94–502 was enacted. Some of its provisions, particularly in title II, responded to some of the problems we had identified in our resolutions. The 8-percent increase in educational assistance allowance under chapter 34 of title 38 was welcome, as was 8-percent increase in individual tutorial assistance allowance authorized for eligible veterans with deficiencies. We were particularly pleased that this legislation removed the restriction of undergraduate use of the 9 months additional benefits entitlement given in 1974.

We are concerned that other provisions in the same law have diminished the educational opportunities of Vietnam era veterans. The negative impact on the veteran-students of these provisions and the regulations that the VA promulgated to carryout—perhaps overcarry out—these provisions have been reported on extensively by Vietnam era educational counselors, post-secondary institutions, educational administrators, and the Vietnam era students themselves.

We support the Congress' and the VA's desire to prevent the bilking of veterans and the Government by unscrupulous profiteers in the guise of "educational institutions." This concern must not become a vehicle for throwing out the baby with the bathwater.

Some of the procedures regarding the 85–15 rule, the "Standards of progress," the restrictions on course enrollment, the rigid requirement of attendance, all have contributed towards a discriminatory situation for veterans as students. These procedures set up two different classes of students: veteran-students and nonveteran students, with the veteran-students being required to meet standards of achievement and attendance that the nonveteran-students are not required to meet.

And the administrative burdens placed on the administrations of the colleges and universities are enormous.

It also seems that the VA procedures relating to standards of accreditation are intrusions into educational policy that would be best left to the educational institutions themselves, and the accrediting institutions which monitor them. Their experience and expertise were not considered, as far as we know, at least not sufficiently considered, in the formulation of these procedures.

Also, we question whether the VA alone can or should determine, "mitigating circumstances," or of the veteran student's inability to meet the standards and requirements set forth in these procedures. Surely, educational institutions are in a better position to evaluate a student's progress and intent according to its standards than an outside administrative agency not grounded in education policy or versed in the complex areas of new educational modes.

Parenthetically, the expertise within government on educational matters is not centered in the VA, but in the Office of Education, and therefore, having the VA make these decisions independently is placing it in the wrong place, if the Government is to make the decision at all.

There are serious questions whether the rights of privacy of student-veterans and other students is being violated by the practice of random inspection of records. Another question is the suspension of veterans benefits for failure to comply with requirements set forth in these procedures, and whether the veteran's right to due process is being violated when no prior notice or hearing is granted prior to such suspension.

Again, parenthetically, our platform and resolutions urge the provision of court review of VA decisions. We've found this to be a serious lack all through the years and we support the legislation which would make this provision part of the statute.

Congress' and VA's laudable concern to reduce fraud and abuse of the GI bill for Vietnam era veterans must not be achieved at the cost of precluding many veterans from utilizing the GI bill. While the tightening up of monitoring procedures may seem a logical way, the original intent of the GI bill must not be lost.

If more careful evaluation and accountability is needed, then educational policymakers should be called in to participate in the development of appropriate procedures so that the student-veterans are protected and encouraged to take advantage of the GI bill.

Regional advisory councils should be formed to examine erring institutions and developing immediate remedies as situations occur. And when we say regional advisory councils, we mean councils attached to each of the regional offices of the VA.

We believe the intent of Congress was to make more educational opportunities for veterans, not less. We recommend a thorough and indepth review of the current policies and procedures, and also having input of the clients, the student-veterans themselves, with the objective of formulating more rational and less discriminatory provisions and procedures.

We urge that a National Educational Task Force be set up to accomplish this review. The task force would include representatives of educational institutions and associations, the accrediting bodies, state departments of education, and Vietnam era veterans, and would provide major input into formulating new policies and procedures. That task force should be convened as soon as possible by the VA Administrator to review the present inadequacies and criticisms of Public Law 94-502, and develop suggestions for remedial action, both legislative and administrative, so that the present GI bill of rights for Vietnam era veterans can be more meaningful to those it was intended to serve.

In an era of increasing educational diversity we should not be cutting off all of the advances in education and broader horizons by setting up regulations which are more geared to the traditional 4-year colleges that you and I attended.

The evolution of the regional advisory committess with similar composition similarly would enable the VA to get a proper input so that its decisions on the situations as they occur at different institutions, would be much more equitable.

One of the problem areas reported to us by veterans in school is the need for continuing vocational counseling. VA has 270 career psychologists, counselors, and contracts out at 180 counseling services. Vocational counseling needs of Vietnam era veteran-students are not being met. With higher unemployment and limited job opportunities available to young people entering the job market, the veteran-students need from time-to-time to reexamine their career goals and reevaluate their educational and vocational directions. This is in line with general trends in our society. In view of the fact that veteran-students are generally older than their fellow students, and many already have family responsibilities, they have a different configuration of problems that need continuing attention. It is well known too that the veterans of this war have had the particular psychological problems of Vietnam to deal with which have made counseling services particularly important. We urge this committee, as it draws up its recommendations, to explore the possibilities of increasing the VA's counseling capability and to provide more contract services for veterans, both in school and outside the school environment.

We would like now to address briefly title VI of Public Law 94–502 which sets up Post-Vietnam Era Veterans Assistance Act. AVC has endorsed the concept of a permanent GI bill and would like to see a peacetime GI bill provide educational opportunities for veterans the way the previous wartime GI bill of rights has. Our platform points out that the beneficiaries of the various GI bills have returned to the Treasury many times over the amount of money invested in their education because with this education they are making more money, and just their regular income tax payments have more than recouped for the nation the money invested in GI bills, and this concept still holds true. We question the 2-for-1 formula that is included in this title because it discriminates against the lower-ranking service men and women, since proportionately their contributions would be much higher than those of higher ranking officers. If matching assistance is to be the vehicle for a peacetime GI bill, then we would suggest a scaled schedule of contributions by service people according to their pay levels be instituted so that lower ranking personnel would have equal opportunity to utilize such a program. A $50 contribution from an E–1 is much more than the same contribution from a colonel. Since the purpose of this peacetime GI bill is particularly to "assist the all-volunteer military program in attracting qualified men and women to serve in our Armed Forces," the Department of Defense should contribute both monetarily and with services towards this educational assistance program. If this title is to be used as an incentive to the recruiting of individuals into the all-volunteer force, then let the funding be considered part of the cost of the volunteer army. Therefore, we urge the Department of Defense be required, "rather than encouraged to contribute to the fund established for the service person."

In conclusion, AVC would like to associate itself with President Carter's expressed wish to bind the Nation's wounds from Vietnam. If Vietnam is to be put behind us, a top priority of this Nation must be to provide needed adjustment and rehabilitation programs for Vietnam veterans.

This is a challenge to the Nation's conscience which must not be ignored. Time is running out if we wish to fulfill our obligation to this generation of veterans who participated in the most unpopular war in our Nation's history. For many of them, eligibility for benefits is running out. Unemployment statistics dramatize their plight in the job market today. Minority veterans suffer even higher rates of unemployment.

AVC urges this Congress to provide remedies for the deficiencies and roadblocks of present programs for Vietnam veterans so they can finally take their places in society as productive, taxpaying citizens. We cannot emphasize enough the moral obligation of this Nation to assist these members of the Vietnam generation, who bore the brunt of suffering from this hated war, acquire the education and skills, the counseling services and medical care, that they need and that is their due. This task should be high on the agenda of this Congress this year.

Thank you for this opportunity to present the views of the American Veterans Committee to the Congress on this important subject.

Mr. MOTTL. Thank you, very much, Mr. Weil. If you and Ms. Willenz will stand by for questions, we would certainly appreciate that.

Next we will hear from Mr. Jim Deal, president of the National Association of Concerned Veterans.

STATEMENT OF JAMES T. DEAL, PRESIDENT, NATIONAL ASSOCIATION OF CONCERNED VETERANS

Mr. DEAL. Thank you, Mr. Chairman. My name is Jim Deal. I'm the newly elected president of the National Association of Concerned Veterans. I'd like to, before I begin, thank the committee for allowing Mr. Stover to appear on behalf of the House Committee at our recent convention in Phoenix. His help was invaluable, and we appreciate it very much.

Mr. Chairman, and members of the subcommittee, the National Assoc[illegible]on of Concerned Veterans appreciates this opportunity to prese[illegible]e positions of our organization on certain provisions of Public Law 94–502, specifically, sections 205, 206, 505, and 509(b)(4). These sections deal with the 85–15 rule, unsatisfactory progress and the 2-year rules respectively.

The NACV, with many organizational and individual members on college campuses throughout the United States has, from the day of our inception in 1968, held steadfastly to the purpose of doing whatever we could collectively to maximize and promote educational opportunities for veterans. That is our duty as an association of concerned veterans, and as citizens of this Nation, that is our responsibility.

It is in this spirit that I reaffirm our absolute opposition to the aforementioned provisions. The NACV fully recognizes, and concurs in, your deep concern in preventing misuse of the invaluable educational benefits embodied in the GI bill. For so many deserving recipients, these benefits have turned bleak futures into horizons of promise. This noble program must be protected. But by what means?

Discriminatory enrollment quotas, restrictions of new program use and unrealistic academic progress requirements now apply to student veterans across this land. Such measures will serve primarily to deny eligible veterans the right to use the benefits—benefits which they have most assuredly earned—in reasonable pursuit of the educational objective of their choice at the accredited and approved institution of their choice.

Section 205 of Public Law 94-502 directs that the Administrator of Veterans Affairs,

> Shall not approve the enrollment of any eligible veteran, not already enrolled, in any course . . . for any period during which the Administrator finds that more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, by the Veterans Administration under this title or by grants from any other Federal agency.

The fact that veterans are only one of the groups comprising this 85 percent quota, yet the only group whose enrollment is restricted when the quota is reached, is a telling sign of the clear inequity of this provision. However, this is not the heart of the NACV's objection to section 205. The fact that many institutions of higher learning most probably cannot gather and maintain the documentation necessary for maintenance of this quota—no matter how important administratively—is not the issue our organization addresses either. And the fact that the Administrator of Veterans Affairs has a broad waiver authority under this provision is surely of little consolation.

The crucial issue regarding section 205 is the enactment of the quota itself. With its enactment, Vietnam era veteran students—a group of men and women whose average age is approximately 30 years, a majority with families, and 3 out of every 4 working—who have earned their benefits and served honorably in the Armed Forces are being told that when they comprise more than 85 percent of the enrollment in any particular course of study, then the quality of that course has been sufficiently diminished so as to make it necessary to bar further veteran enrollment.

The Veterans Administration has testified before the Congress of the United States that the potential for abuse has been "greatly curtailed in large part" by the enactment of the 85-15 quota and the 2-year rule. Officials of that agency have also had to testify in courtrooms across this counry regarding the ability of those provisions to curb abuse.

Through the months after section 205 was amended into Senate bill 969, and from its enactment to the present, our organization has sought an understandable reason for the imposing of such an incredible gauge on educational quality. To date, we have yet to be made aware of any evidence, documentation, data, or information explaining exactly how the 85-15 rule is going to curb abuse.

The NACV urges your support in repealing this section 205.

Sections 206 and 505 represent a drastic intrusion of Federal authority into institutions of higher learning. Although title 38 provides that a veteran's academic progress shall be judged according to the standards and practices of the institution which the student is attending, there has now been imposed on student veterans unrealistic and inflexible progress determinations.

Under appendix O of DVB Circular 20–76–84, veterans have been singled out of the student body, a student body consisting of students who receive all types of financial assistance, and required to conform to a separate and more rigid progress policy.

Appendices M and O do not reflect the realities of college grading process. The Veterans Administration demands a total progress status determination be accomplished on each student veteran each term. And this determination must be based on the formula as prescribed in appendix O, and not the school's traditional and approved standards of progress.

American education has always maintained educational standards through the voluntary accrediting associations system. The higher education community of this Nation is being forced to surrender, in large part, the traditional prerogative of establishing and maintaining its own academic progress standards.

One exceptionally alarming provision of appendix O deals with that stage when a veteran has been determined to be progressing unsatisfactorily. Paragraph 8 of appendix O states that

> If educational benefits are terminated due to a determination of unsatisfactory progress, VA counseling is required before benefits may be reinstated even if the student continues in the same course at the same school. If the VA counseling psychologist determines that the cause of the unsatisfactory progress has been removed and that the program that the beneficiary proposes is suitable to his or her aptitudes, interests, and abilities, benefits may be reinstated effective the date such conditions were met as determined by the counseling psychologist * * *

This proviso allowing complete discretion and control over a veteran's academic future, should not be placed in anyone else's hands but the veteran whose academic future it is.

The NACV strongly contends that the extension of the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education is a longstanding goal and most worthy of protection. The satisfactory progress requirements as outlined in appendices O and M are, in fact, detrimental to the academic needs of student veterans attempting to readjust to an academic environment following several years of absence.

Section 509(b)(4) of Public Law 94–502 restricts veterans from enrolling and using their earned GI Bill benefits in a course offered at a branch or extension until such program has been inexistence for more than 2 years. Our membership sees this provision as denying eligible veterans the opportunity to gain from various progressive and worthwhile educational experiences. We urge your support of legislation which affords student veterans the chance to enroll in approved and accredited programs without the penalty of this restrictive rule.

A General Accounting Office study, dated March 19, 1976, entitled "Educational Assistance Overpayments, A Billion Dollar Problem," which I'm sure you are aware of, examined the causes of the abuse and overpayments and suggested solutions. It is significant to note that the 85–15 quota, the unsatisfactory progress provisions, and the 2-year rules were not recommended, or even alluded to, as possible remedies.

The GAO study does attribute a significant portion of the abuse problem to advance pay and prepayment of monthly veterans checks. In the recommendation for correction, the study emphasizes the need for more prompt reporting by the veteran, by the institution, and by the Veterans Administration in all cases of a student's change in enrollment status. The NACV wholeheartedly concurs with this conclusion. Ongoing efforts to keep the three principal parties—the veteran, the institution, and the Veterans Administration—more closely aware of the requirements of the other, is essential to the solution.

It is the heart of this solution.

Veterans' earned benefits must not be compromised by discrimination against, and restriction of, the student veteran. If the Vietnam era veteran is forced from the educational programs he or she chooses in an attempt to curb abuse, then hasn't the manner of abuse been changed, still yet as evident?

On behalf of the NACV I wish to thank you, and will be available for questions later.

Thank you, sir.

Mr. Mottl. Thank you very much, Mr. Deal, and we certainly appreciate you standing by for questions at a later time this morning.

Is Mr. McClure here yet?

[No response.]

Mr. Mottl. If not, we will go on to our next witness, who will be Mr. Lloyd Davis, Executive Director of the National University Extension Association. Is Mr. Davis here?

[No response.]

Mr. Mottl. We have Mr. Cecil Byrd, Acting Executive Director, National Association of Veterans' Program Administrators.

Mr. Peterson. Mr. Chairman?

Mr. Mottl. Yes, sir.

Mr. Peterson. Mr. Byrd was not sure he could be here because he was in another meeting, and he asked that I might make a comment.

Mr. Mottl. Very well, Mr. Peterson.

STATEMENT OF MARVIN J. PETERSON, NATIONAL ASSOCIATION OF VETERANS PROGRAM ADMINISTRATORS

Mr. Peterson. Thank you. My name is Marvin J. Peterson. I am Assistant Dean for Veterans' Affairs of Weaver State College, and a member of the Board of Directors of NAVPA.

I am going to attempt in a few brief moments to trace back to the law various Veterans Administration regulations published during the past several months.

Comments on Public Law 94–502 are directed toward certain objectives which NAVPA members seek to achieve.

Number one, an aggressive attempt to identify and correct instances of fraudulent use of Veterans' Administration educational benefits must be maintained. Educational institutions should accept that responsibility. Veterans Administration regulations will not be effective by themselves in correcting these abuses.

We feel that this can be accomplished by closer communications and input from those who administer the programs on college campuses.

Number two, the position of the original GI Bill, that benefits are provided to enable veterans to take advantage of educational opportunities, should be reaffirmed. Veteran students should have every opportunity provided to nonveteran students. Some of the restrictions of Public Law 94–502 prohibit this.

And number three, due process safeguards should be provided to student veterans in danger of losing their VA educational benefits. Presently, if a student is dismissed from college it is sometimes 6 months before he can be reviewed by the VA before he is allowed to return to his academic pursuits, and then perhaps his interests are lost because of the regulations that he has had to go through, and in many cases, traveled a great distance. In our state they have to travel sometimes 200 miles to get this review before they can be admitted back into school.

Four, the responsibilities of the state approving agencies, the Veterans Administration, the educational institution for the provision of educational benefits, should be clarified, and overlapping of responsibilities reduced to the greatest extent possible.

And number five, administrative expense to educational institutions in complying with provisions of the Veterans Administration should be relieved by increasing the reporting fee to a more realistic level, as indicated in the NAVPA study which was introduced yesterday.

There is confusion and overlap in responsibilities of the three agencies involved in the provision of veteran educational benefits. They should be clarified. For example, the state approving agencies should be responsible for determining the legitimacy of educational programs. The SAA should be guided by accreditation by a member of the Council of Postsecondary Accreditation.

For institutions not so accredited, the SAA's should make a judgment. The SAA's should not make determinations of the extent to which institutions meet VA regulations. That is the responsibility of the VA, and they should do that.

Educational institutions should be responsible for establishing a base criterion of satisfactory academic progress, recognizing that individual units within the institution have higher standards. Such a standard might be set in such a way that the lowest 5 percent of all students in terms of academic achievement are identified by applying it. Once set, the institution should provide advising and counseling to student veterans who fail to meet it, and report it in a timely way to the Veterans' Adminisration.

The Veterans' Administration must conduct compliance surveys as required in U.S. Code 38–1793. Following such a study, the Veterans Administration should decide whether or not the objectives of the VA Educational Benefit program are being met. If they are, no further review should be necessary until the next compliance survey. If they are not, the VA should assume responsibility for certification and counseling services. If the VA assumes such responsibility, institutional support funds provided for certification services should be terminated.

The compliance survey. The ability of educational institutions to make good judgments about the academic progress of the student, including veterans, represents a unique contribution they can make to the process of providing benefits. The VA can review that process, including standards of progress and institutional decisions, in the application of standards to individual student veteran records under 38 U.S. Code 1793. If the VA believes standards of student progress are too low, the VA should take over responsibility for such determinations. Institutions would then determine enrollment status for VA officials and provide copies of grade records at a usual charge. Essentially, the institutions can evaluate progress according to institutional standards. The VA can better evaluate progress according to VA standards, and there is no point in forcing institutions to administer VA regulations which they do not understand, and with which they disagree. The compliance survey should be turned into a thorough discussion between VA and educational institutions of how student veteran progress is being evaluated.

Title II of section 205, the 85–15 rule, we feel that the entire section should be deleted, and no further discussion.

Title II of section 206 and section 307, both sections should be deleted. The effect of regulations promulgated to enforce these sections is to require veterans to meet a standard of progress higher than those of about half of the other students. By requiring the veteran to make average progress, the veteran must achieve at a higher level than those below average, which of course are roughly 50 percent of the students.

Standards of satisfactory academic progress based on grades achieved should provide adequate control of veteran academic progress, and more specific regulations are unnecessary.

Title V, section 504, sentence four. Regulations promulgated by the VA in response to this section require the student veteran to repay educational benefits already paid to the veteran for courses not completed satisfactorily. The regulations change the basic purpose of providing VA benefits from "Educational benefits are provided to support the student veteran during his or her attempt to complete an educational program" to "Educational benefits are provided to student veterans only for academic work completed with satisfactory grades."

Veteran students complete classwork in just as high or in some cases higher proportion than nonveteran students. Sincere and hard-working students, whether veterans or not, do not always complete academic work satisfactorily. Many who fail specific courses go on to complete their degrees.

The regulations promulgated by the VA remove needed flexibility for student veterans and set a standard higher for veterans than exists for other students. In no other case are recipients of financial aid expected to repay the agency providing those benefits for work completed unsatisfactorily at educational institutions, and I believe it has been shown that veterans' benefits are an earned entitlement, and not given to them.

The control on satisfactory progress is through application of reasonable institutional standards of academic progress. This section should be deleted.

Title V, section 507. The statement. The date of interruption or termination will be the last date of pursuit, or, quote, "has been interpreted by the VA to require complex attendance check procedures by institutions."

Some classes have as many as 350 students in a class and it is impossible to check attendance. Now recognizing that the reason to be concerned about class attendance is that poor attendance may result in unsatisfactory academic performance, which is itself evaluated through other procedures, and the cost and possible inequities in doing attendance checks for veterans far outweight possible savings in cases of identified fraudulent use of educational benefits and formal withdrawals are already reported to the VA in practically all cases in a timely manner.

Institutions should not be required to make special attendance checks for veteran students. The section should be amended as follows: "serviced by the schools according to regularly established procedure used by the school to determine the last date or pursuit."

And title V, section 508, with regard to section 508 of the law, amending section 1784(b) of title 38, United States Code, NAVPA was heartened by the increase of the reporting fee paid by the VA to educational institutions for required reports and certifications submitted by those institutions.

However, NAVPA feels that a $2 increase is far from a realistic figure. The increase in the reporting fee must be raised to a reasonable rate, and the recent NAVPA study, which has been made part of the record, showed that those necessary costs incurred by the institution in performing these reporting and certifying functions averaged $46.40. In order to fully and effectively comply completely with all VA regulations, this more realistic figure is a necessity.

Unfortunately, the money presently being used to perform these required functions is being taken from other vitally needed educational programs, and from some cases, VCIP funds, to carry out Veterans Administration regulations. For these reasons NAVPA urgently recommends that the reporting fee be raised to be more in line with realistic levels needed to perform the functions, and that it be done as soon as possible. Because of the additional requirements presently being imposed upon educational institutions by new laws, the VA makes the need for this increase most pressing, vital, and immediate.

And title V, section 510. This appears to overturn the provisions of the Federal education rights and privacy legislation, commonly known as the Buckley amendment, as well as institutional policy on students' right to privacy.

Confidentiality of student records received extensive review by the Congress and by the higher education community. Unnecessary access to student records by government investigators at educational institutions has been strongly criticized by students and faculty alike.

Responsible institutions will provide summary information to the VA for comparisons of the progress of veteran students with nonveteran students. Recognizing that there may be instances where the VA must question the accuracy of those summaries, it would seem wise to provide protection from unnecessary searches of student records and place responsibility for such access with the central VA office.

It is a serious matter.

The section should be amended as follows: "Duly authorized representatives of the government, upon personal order signed by the Administrator—"

And finally, title V, section 512(b). The section requires educational institutions to maintain a complete record of all materials used with prospective students. Consider the administrative headaches of maintaining the complete record of print media and audiovisual materials for a typical large university's colleges, graduate programs, coordinate campuses, numerous residency and internship programs, evening programs, and general public relations. Why? At what cost to taxpayers and students? How will the VA determine the validity of these materials?

The VA's purposes can be accomplished by replacing the section with the following language:

> In case of misrepresentation of educational programs documented by the VA, the Administrator may suspend further enrollment of veteran students until misleading materials are changed. Educational institutions may appeal VA decision in such matters to a central board comprised of VA central office officials and representatives of the higher education community.

Mr. Chairman, I thank you very much for this opportunity.

Mr. MOTTL. Certainly. Thank you, Mr. Peterson. I see that Mr. Davis has now come into the room. Mr. Lloyd Davis, executive director, National University Extension Association.

STATEMENT OF LLOYD DAVIS, EXECUTIVE DIRECTOR, NATIONAL UNIVERSITY EXTENSION ASSOCIATION, ACCOMPANIED BY THOMAS BLACKBURN OF WHITE, FINE & VERVILLE; AND DR. BENJAMIN MASSEY, VICE PRESIDENT FOR ACADEMIC AFFAIRS, UNIVERSITY OF MARYLAND

Mr. DAVIS. Thank you, Mr. Chairman, for the opportunity to appear again today.

We appeared yesterday with testimony concerning the impacts of Public Law 94-502 on programs conducted by educational institutions on or near military bases under contract with the military services. In the limited time available we were not able to fully discuss the problems. We submitted our statement for the record. We commend the full statement to your attention.

Today I want to first emphasize the magnitude of these particular problems. These programs are conducted at virtually every military installation. At any one time about 500,000 personnel are enrolled in these courses. The law and the regulations as now written could essentially terminate the programs and deny educational opportunities to millions of personnel at lonely stations through the world.

The combined impact of the several problems we discussed is very severe.

The programs about which we are speaking are conducted on or near military bases at the invitation of the military services and under contract with the services. The services have standards that must be met by participating institutions. The services provide surveillance of the programs. A fly-by-night organization would not likely be invited by the military to serve the needs of their personnel. If somehow an incompetent institution became involved, it soon would be weeded out by the military services. There are, we believe, no programs there that are established to take advantages of veterans benefits. We believe that the procedures used by the military services are adequate to avoid this problem of abuse.

Now I would like to discuss briefly the relief measures we recommend to permit continuation of educational programs for our 2.1 million service personnel. First, the power of attorney problem. The problem is one of cashing checks and obtaining payment for courses taken before the effective date of this provision in the law during the time when the power of attorney system was in effect. The VA has interpreted the effective date to mean that no checks could be cashed pursuant to a power of attorney after that date, December 1, 1976, rather than that a power of attorney could not be signed for this purpose after that date.

The needed action is for the law to be amended to permit institutions to negotiate payments for students enrolled in terms beginning prior to December 1, 1976.

With respect to the 2-year and 85–15 rules, the problems for programs on military bases can be solved very simply. The Congress has already provided an exemption from these rules for programs under contract with the Department of Defense which are on or adjacent to military bases, and are available only to active duty military personnel and their dependents, and have been approved by the State approving agency of the State in which the base is located. The simple solution is to strike from this exemption the requirement that programs to be exempted be limited in enrollment to active duty military personnel and their dependents. This change would enable the military services and the educational institutions to determine eligibility for enrollment as in the past. This would avoid the necessity to close down programs where the military personnel and their dependents alone do not provide an economic unit for instruction.

The problems with SAA approval can be overcome with equally simple adjustments. The problems are due to the requirement that on bases in the United States the programs must be approved by the SAA in the States where the bases are located, and by the great variability and inconsistence in actions among the various SAA's. The law should be changed to make all courses at or adjacent to military bases subject to the approval of the State SAA in the State where the home campus is located.

Finally, we will discuss the relief of the problems resulting from the requirement for administrative capability at all branches. To comply with this will require institutions to close down programs at a large number of bases.

We believe the intent of the law can be complied with effectively with central university enrollment records and certification. In other cases these administrative services can be provided effectively at regional centers. The Veterans Administration should hold the institutions responsible for keeping accurate, effective, and complete records as it now monitors institutions through compliance surveys. It should permit institutions freedom to keep these records and exercise the necessary controls over their courses in ways that provide effective and efficient administration without prohibitive costs.

I would like to cite one recent example of the application of these rules in combination. For 30 years the University of Maryland has taught a course at the Pentagon. Due to limited space there they were asked to move this to the Forrestal Building. This involves moving to another State, another SAA, another onsite inspection. With the present definition of a "new course" being new in a new location, this gets defined as a new course when it goes to the Forrestal Building, and the University of Maryland was informed that this course, with the same professor, same student body, would be ineligible for veterans benefits when taught in the Forrestal Building.

Mr. Chairman, I have with me Mr. Ben Massey from the University of Maryland who can respond in detail on problems they're having. Also, Mr. Tom Blackburn, representing Boston University, who can respond in detail on some of the situations there. Thank you.

Mr. MOTTL. Thank you very much, Mr. Davis. Is Dennis McClure—has he arrived yet?

[No response.]

Mr. MOTTL. If not, why don't we invite the other people here up to the front—you can just remain here. Don Schwab, did he come back? Do you want to come up front, Don? Mr. Lawson, Mr. Thrower, come up front please. And then we have Mr. Weil and Mrs. Willenz can come with you up front. And Mr. Deal. And Mr. Peterson.

Well, why don't I start off the questioning so we give Mr. Walsh a chance to prepare some questions here for the panel.

First of all, for Mr. Schwab, how many Vietnam veterans are members of the VFW, and have any of your members who are Vietnam veterans complained about any of the provisions of the veterans education program as amended by Public Law 94–502?

Mr. SCHWAB. Sir, our total membership right now exceeds 1.8 million members. Of those, slightly over 500,000 are Vietnam veterans.

The major complaint we have had has been that under the restriction on the undergraduate work, it was lifted too late for some of them. Regarding the Vietnam era veterans, we had many complaints last spring of our position in opposing extending the 10-year delimiting date. However, we haven't had such complaints for months.

Mr. MOTTL. All right, thank you. Mr. Lawson, I have a question for you, if I may. Do you know of any specific instances where a veteran has actually been denied being enrolled in a course of education because of the 85–15 rule?

Mr. LAWSON. There was a case, I believe, in South Dakota—and maybe Mr. Deal can address that—whereby a minority veteran, a black veteran, was part of some litigation pertaining to 85–15 and the 2-year rule.

What is happening is that when these veterans—once they are counseled into pursuing education and training programs, they are also counseled and told about the 85–15 rule, and the 2-year rule, and many of them do not feel that it is worth the hassle.

What we are confronted with, what we are afraid of is this, that word, 85–15, and the barrier of the 2-year rule is getting into the communities and they do not even come out any more.

There was a surge in getting minority veterans into education and training programs in the past 3 or 4 years, and now they are not, simply because of some of the provisions that are in the new law, and some other extenuating circumstances also. So, we are finding that all of the work and initiative that we've taken to make this community aware of the opportunities that are available—that now we're being almost thrown back to day 1. The biggest fear now, Mr. Chairman, is that in June, when the BEOG and the SEOG waiver is lifted, then we are going to have a tremendous effect on these institutions or individual veterans.

Mr. MOTTL. One more question, Mr. Lawson, for you. As you know, the Veterans Administration has great latitude to waive the 85–15 rule when it is in the interest of the veteran. Do you know of any instance where the Veterans Administration, in your opinion, has acted arbitrarily and capriciously to extend a waiver on 85–15 rule for a particular course of education or training?

Mr. LAWSON. I do not know specifically of any. Julius, have you heard of any?

Mr. THROWER. No.

Mr. MOTTL. Thank you. The gentleman from New York, do you have any questions at this time?

Mr. WALSH. Yes, thank you, Mr. Chairman.

My question relates to Mr. Davis. I was not here to hear the testimony, but it has been brought to my attention by the staff, Mr. Chairman, and I would like to clear up some of my concerns about the testimony.

According to your testimony, Mr. Davis, your concern lies not only for veterans and military personnel entitled by law to veterans educational benefits, but for civilian employees and their benefits—and their dependents. What do you mean by that?

Mr. DAVIS. On each of the military bases, of course, there is a substantial group of civilian employees of the military service. Under the terms of the contracts our member institutions have with the services these personnel are generally included in eligibility to participate in these contract programs.

The courses generally include 20 to 35 percent of the total enrollment who are these civilian employees of the military. It is this added enrollment that makes many of the courses possible. Without this enrollment, the enrollment of strictly military personnel in many cases would be at a level which would make it uneconomic to put the course on. Now, Mr. Massey, who has had a lot of experience with this, might want to elaborate further on that problem.

Mr. MOTTL. Mr. Massey, do you have any comments on that?

Mr. MASSEY. That is basically the answer.

Mr. MOTTL. Go ahead, Mr. Walsh.

Mr. WALSH. On page 5 of your testimony, Mr. Davis, your concern extends itself to foreign military personnel, and you go on to charge "to deny these U.S. citizens the right to participate in education programs designed for the military community in which they live and work is discriminatory and violates the commitments made to these persons by the military services which employ them."

Would you explain that to me, please.

Mr. DAVIS. I am not referring to the foreign military personnel, but to the civilian personnel on the bases. As these people are employed to work on the bases, particularly overseas, as I understand it in the employment process, they are told about the opportunities they will have to study while they are there. It is a part of the recruiting inducements and attractions.

Mr. WALSH. Well, you don't mean foreign military personnel——

Mr. DAVIS. No; I did not mean to apply to foreign military personnel.

Mr. WALSH. I see. So that should be deleted from the record.

Mr. DAVIS. Many of the contracts do include both the civilians and certain foreign military personnel. They make up a part of the total student body. But this commitment business is not meant to apply to the foreign personnel.

Mr. WALSH. But you are aware, of course, that the jurisdiction of this committee just extends and concerns the veteran.

Mr. DAVIS. This is right.

Mr. WALSH. You are fully aware of that.

Mr. DAVIS. Our concern is that as we limit the opportunities for others there to participate in the courses, it frequently reduces the student body to the point where the course must be terminated, and in the process we are denying opportunities to veterans there.

Mr. WALSH. You have your compass pointed in the wrong direction when you are saying that this committee is discriminatory, because this committee has no jurisdiction over these matters. This is a matter where you should be talking to the Pentagon, or somebody else along those lines, not to this committee. Our committee is clearly restricted in its jurisdiction to veterans, and our program is concerned with the veterans.

Mr. DAVIS. Many of these civilians, of course, are also veterans.

Mr. WALSH. And they are entitled to the courses, of course.

Mr. DAVIS. Yes.

Mr. WALSH. But we are concerned with providing educational opportunities for veterans, and not for other military personnel, or not for civilian personnel who are not veterans. I think the record should be clear on that at this point.

Mr. DAVIS. Yes; I understand.

Mr. MASSEY. Could I just comment on that, Mr. Walsh?

Mr. WALSH. Surely.

Mr. MASSEY. The problem is that the present waiver, which applies to the 2-year rule, says that the waiver applies only to courses which are limited to military and their dependents. That means that you have got about a third of the military bases overseas, DOD civilians who are excluded by that waiver, and the universities couldn't continue to run that program unless that third of the base population was permitted to enroll.

So the present waiver, the way the law reads, doesn't permit those people to attend the courses.

Mr. WALSH. If the waiver was changed, do you feel that better education opportunities could be created for veterans?

Mr. MASSEY. Yes, sir; there is no question about that. The opportunities that existed for 30 years overseas had been made possible by this one-third of the base population who have always been able to attend the classes.

Mr. WALSH. You made another statement in your testimony, Mr. Davis, that concerns me a little bit. You have charged that the Veterans Education Act is discriminatory against nonveterans. How did you mean that?

Mr. DAVIS. I'm not sure of the context in which I made the statement. I think I have to check on that.

Mr. WALSH. It's on page 5. It says,

> Further, to deny these U.S. citizens the right to participate in educational programs designed for military, the military community in which they live and

work, is discriminatory and violates the commitment made to these persons by the military services which employ them.

Mr. DAVIS. Well, some of those——

Mr. WALSH. I think the Veterans Education Act was designed to be discriminatory because we are interested in helping the veterans who have made some sacrifices who interrupted their education, and answered the call of duty. It is designed to be discriminatory and we intend to keep it that way.

Mr. DAVIS. Many of those are veterans. This limitation applying just to military personnel and their dependents was discriminating against the civilian veteran who are a part of that student body.

Mr. MASSEY. Not only many, Mr. Walsh. Most of these civilians are in fact veterans of one era or another.

Mr. WALSH. Why can't they get in the program?

Mr. MASSEY. The present waiver applying to military bases says that the classes are limited to military personnel and their dependents. So we can't enroll any persons other than military and their dependents, if we want to continue to be able to have GI benefits for these people.

Mr. WALSH. Well I wonder, Mr. Chairman, if we could get a response from the Veterans Administration on this matter, because we don't want to exclude any people that are veterans, whether they are civilians, or whether they are in the military.

Mr. MOTTL. We will definitely secure an answer from them. I believe the Veterans Administration spoke on these programs. In fact, the Veterans' Administration testified on March 29, at which time Mr. Andrew Thornton of the Veterans' Administration testified that the programs offered by schools under contract with the DOD on military bases enjoy an exemption to both the 85–15 and 2-year rules. To imply that veterans who are employed at or near a military base at an overseas location are being discriminated against is stretching the readjustment concept of the GI bill since it is presumed veterans seeking readjustment assistance would have obtained their education and training before taking an overseas civilian assignment. In contrast, it should be stressed that courses contracted for in cooperation with the DOD are tailored for active duty personnel who opt to use their GI bill assistance while still in the service and presumably will make a career in the military service of our country. Here follows the testimony of Mr. Thornton referred to above:

> Mr. ANDREW THORNTON. The final category of waivers under the terms of the 85–15 Rule are those courses open only to military personnel, their dependents, and civilian employees of a military installation, provided the course was offered on or adjacent to the base. The course also has to be offered under contract with the Department of Defense and, in addition, it had to be approved by the State approving agency in the State where the military installaion was located.
>
> Public Law 94–502 amended 38 U.S.C. 1789 by applying the 2 year rule to courses offered by certain branches and extensions previously excluded; it also excepts certain courses from the rule. For example, this amended 2-year rule makes an exception for courses that are offered by a school which is under contract with the Department of Defense. This exception is available only when the course is given on or immediately adjacent to a military base; is available only to active duty military personnel and their dependents; and is approved by the State approving agency having jurisdiction over the base. The reason for this exception is that schools which contract with the military usually receive some supervision from the Base education authority and fill a

particular need of a group, whose members may all be eligible for benefits under the GI Bill.

Mr. Walsh. Thank you, sir.

Mr. Davis. Thank you.

Mr. Weil. Mr. Chairman.

Mr. Mottl. Yes, Mr. Weil.

Mr. Weil. Perhaps this question could also extend to the fact that there are veterans of the American services residing as civilians overseas, not as employees, and whether they too should be allowed to exercise their veterans educational benefits in the same context.

Mr. Mottl. Fine, that should be brought in too, an inquiry into that aspect also.

Next we will recognize the gentle lady from Massachusetts, Mrs. Heckler.

Mrs. Heckler. Thank you, Mr. Chairman. The discussion of the military—or the veterans benefits of overseas military and civilian Americans, but particularly military, is related to the question of the appropriations of the Department of Defense and the appropriations of the Veterans' Administration.

It was the thinking of this committee that at some point the Department of Defense should take over the cost of education for its military personnel, that the Defense Department, with the volunteer Army, was recruiting new members of the armed services by the promise of GI bill benefits, which was fine. They were to be utilized, however, during the period of the military career, and therefore it was the thinking of many that the funding should come out of that enormous Defense budget, rather than the VA budget, which is divided into so many parts, including hospital needs and education and so forth.

Now, I would like to ask, Mr. Chairman, that the committee develop a report on the amount of funds the military is spending on its programs in terms of funding for education, and an analysis of the current status of the problem, which has been revealed in this testimony, and I would like to see the budgetary impact. What is the military doing, what is the Department of Defense doing?

Now, that does not relate to civilians abroad. Their only problem would be the time limit. They would only have a certain period of years in which to complete their programs of education.

But would you permit that study to be done?

Mr. Mottl. Yes, Mr. Stover said he would be delighted to request that information be furnished to the committee.

[The information follows:]

Office of the Assistant Secretary of Defense,
Washington, D.C., June 14, 1977.

Hon. Ronald M. Mottl,
Acting Chairman, Subcommittee on Education and Training,
House of Representatives, Washington, D.C.

Dear Mr. Chairman: This is in further response to your May 17, 1977 letter requesting information on the education and training programs offered by the military to active duty personnel.

Following are fiscal year 1977 budgeted costs for voluntary education programs broken out by branch of Service. Fifiures shown below under the headings CONUS/Overseas represent best estimates on the basis of fiscal year 1976 expenditures. Not included are costs for educational assistance provided under the G.I. Bill and pay for civiilan and military personnel.

FISCAL YEAR 1977 BUDGETED COSTS FOR VOLUNTARY EDUCATION

[In millions of dollars]

	Total	Conus	Overseas
Army	63.5	41.3	22.2
Navy	11.8	8.0	3.8
Air Force	14.6	10.4	4.2
Marine Corps	2.9	1.5	1.4
Total	92.8	61.2	31.6

Your letter also asked how the Department of Defense has adjusted to the termination of the PREP Program which was previously funded by the Veterans Administration. PREP has been replaced by a Defense remedial and high school completion program. Proposed Service reprogrammings to fund this program were approved recently by the House Committee on Appropriations in the amount of $17.565 million.

I trust this information will be of assistance to the Subcommittee.

Sincerely,

THOMAS W. CARR,
Director,
Defense Education.

Mr. WALSH. Would the gentlelady yield for a minute?

Mrs. HECKLER. Yes, I would be happy to yield.

Mr. WALSH. I am concerned, because I do recall the discussions we had in this committee. I agree that it was the responsibility of the military to educate their own, not the responsibility of the Veterans Affairs Committee. But I don't think we meant to exclude any person who would qualify for military service up until the changeover——

Mrs. HECKLER. No.

Mr. WALSH [continuing]. To the civilian—or rather to an all-volunteer Army. So that I don't think that we want to exclude any veteran who is entitled to an education, simply because he continues on in the military. That would not be my intention.

Mrs. HECKLER. I think this study, if it is sufficiently detailed, will reveal all of the different categories of cases, and then we will be able to review this and perhaps reconsider any earlier action taken by the committee.

Now, I also have agonized over the issues that we have considered for the last few days, specifically the 85–15 and the 2-year rules, Mr. Chairman, I would like to say that there are veterans in my district who have been informed that their benefits will be terminated because of a case in Massachusetts involving a junior college, which has established new campuses, two of which are in my district. In one case a campus in Fall River has been in existence less than 2 years, and it is now involved in a court case to determine whether or not they can continue.

The junior college is suing the Veterans Administration, and the veterans in that area have been notified that their benefits will be terminated.

Now, that poses a problem, because another junior college located close by is over subscribed to—there are virtually no places left.

However, I don't say that those are all the facts. The facts are going to be discovered, and be investigated.

But one of the weaknesses of the law is that there is no waiver provision for the 2-year establishment of school requirement, therefore, if a school does not satisfy that requirement, but does offer quality education, it will be eliminated along with the schools that are the rip-off agents.

Now that's a very unfair provision, so our committee will have a lot to consider in looking at the whole issue.

I think that the testimony of all of the members and witnesses has been valuable, but I still would like to ask the witnesses to address the question of how we can improve the quality of education for veterans.

We are talking here about financial support, about 85–15, and the 2-year rule. Beyond those two issues, and also the military, is the question of veterans overseas, or American veterans, military personnel, et cetera.

Does anyone who has testified this morning wish to talk about any further needs? I am not speaking of financial funding, but I am speaking of other needs. The funding is one aspect of it, but I think there are other issues in terms of veterans' education.

Now, I would also like to state for the record that the House Committee on Veterans Affairs did not draft 85–15, or the 2-year rule. That was completely the handicraft of our colleagues in the other body. And they have visited upon us very substantial questions in terms of the legislation.

We supported an 8 percent cost-of-living increase in educational benefits for GI's and for veterans, and that was the thrust of the new law—that plus an extension of a number of months in which the veterans could use their benefits.

The Senate, in the waning hours of the last session, wrote this bill, or had considered it earlier, introduced it, and had it passed at that point. And it was then, at 10 p.m., brought over in the conference version of the bill to the House. So this committee should be absolved of responsibility for the original draftmanship of those particular provisions, and at that point the issue before the House member was the question of whether we would secure the 8 percent increase in benefits. This was such an overriding issue that one did not feel prompted to nitpick over other provisions that were coming in late in the night and late in the session and in the rush for adjournment. It was a time when very, very scant consideration was given to the total bill. There was only the pressure of passing the 8 percent increase.

Nonetheless, beyond the two issues that we are considering, specifically I would like to address this question of veterans education, veterans readjustment. What more could be done by the colleges, by HEW, by Veterans Administration? Are we doing enough? Are we doing it in the right way? That is the general subject, but I think some witnesses might have comment that they would like to make on the subject.

Mr. MOTTL. Mr. Weil? Would you like to address yourself first?

Mr. WEIL. Mrs. Heckler, if you will look at our testimony, I think that the regional advisory councils which would combine input from the veterans and the educational specialists and HEW, this would emphasize some of the more innovative types of education. This might at least be a step in the right direction, and the direction you are seeking.

Mrs. HECKLER. I see. I certainly will look at that.

Mr. MOTTL. Thank you, Mr. Weil. Mr. Lawson, I think you had a response to Mrs. Heckler's question.

Mr. LAWSON. Mrs. Heckler, I think it is time that the primary parties involved in this total arena—the Veterans Administration, the veterans, the educational associations, and the State approval agencies—got together. They have never sat down and talked to try to work these problems out, and these are the primary entities involved.

I believe that until they get together at a conference, or whatever, sit down and talk and try to work these problems out, we are going to continue right along with the same posture that we have now.

I mentioned in my statement earlier that the Veterans Administration is cutting back on the vet rep program. This is the individual on campus. And they are cutting back. I am told it's budgetary problems.

Mrs. HECKLER. How substantially are they cutting back?

Mr. LAWSON. I wasn't given any figures as to how many bodies they were cutting back, but they are cutting back and bringing the folks back to the regional offices, and they're doing some kinds of work there.

Mrs. HECKLER. How many veterans do we have on campuses today, now? Today. Do you know?

Mr. LAWSON. I believe there is a representative from the VA who is here. About 1,100.

Mrs. HECKLER. Is it 1,100? I do not believe that we could have 1,100. We could never have 1,100.

Mr. LAWSON. I think it is more like 411.

Mrs. HECKLER. 411?

Mr. LAWSON. They were authorized 1,300 and they cut back last year.

Mrs. HECKLER. You are talking about representatives. I am saying what was the total veteran population on campuses.

Mr. LAWSON. Oh, I'm sorry. We are talking about employees of the Veterans Administration.

Mrs. HECKLER. Yes.

Mr. DEAL. About 1.5 million.

Mrs. HECKLER. 1.5 million, and there are you think 11—

Mr. DEAL. About 1,100.

Mrs. HECKLER. 1,100. I see. Yes.

Mr. DAVIS. Mrs. Heckler, I have an idea off the top of my head in response to that.

Mr. MOTTL. Mr. Davis is responding now.

Mrs. HECKLER. Yes.

Mr. MOTTL. The amendments to the Higher Education Act passed by the Congress last year in title I, title IX, and title IV, provide extended Federal assistance to continuing education programs for adults. There are, scattered around through the various departments of the Government, dozens of other programs that do provide some kind of assistance for continuing education of adults.

I would suggest that we might substantially help the veterans if we looked for ways to bring about a higher degree of coordination among these many programs administered by various departments, and in the process save money, helping veterans, and I can't be very specific on how that might be achieved, but I think that if we look for ways to use combinations of programs it can be useful.

Mrs. HECKLER. Thank you very much, Mr. Davis.

Do we have a representative from VCIP?

Mr. MOTTL. Yes, Mr. Peterson.

Mrs. HECKLER. Is he here? He is here. Mr. Peterson, could you draw up a chair.

Mr. Chairman, I ask permission to have him included in this panel so we can question him.

Mr. MOTTL. Yes, he was invited to be on the panel.

Mrs. HECKLER. All right. I appreciate that. I thought he was.

Mr. Peterson, will you tell us about your outreach program.

Mr. PETERSON. VCIP has mandated that the moneys being given to the college campuses be used for outreach to especially disadvantaged veterans.

Mrs. HECKLER. And what is the total amount of your budget?

Mr. PETERSON. $25 million. $23.7 million nationally. That is 8 percent of the level that was requested 3 years ago.

Mrs. HECKLER. And how many representatives do you have?

Mr. PETERSON. We have about 1,300 representatives.

Mrs. HECKLER. 1,300?

Mr. PETERSON. Representative institutions, yes, receiving funds. Anywhere from $3,000.00 to $135,000.

Mrs. HECKLER. How are the funds channeled and how do you carry out your goals? How do you reach your goals?

Mr. PETERSON. The funds are channeled from the Office of Education through the institutions by the amount of veterans they have, full-time equivalent veterans, on their campuses. And the minimum amount, as I stated, was $3,000, up to $135,000 to carry out these mandates by the VCIP regulations.

Mrs. HECKLER. Now, who drafted the VCIP regulations?

Mr. PETERSON. The Office of Education.

Mrs. HECKLER. And what is the main goal of the regulations, or the program?

Mr. PETERSON. The main goal is to assist the college campuses in setting up the viable office of veterans affairs so they can outreach these veterans and find them and take them and get them into school, or into a OJT program, or into some type of training which will make them more employable.

Mrs. HECKLER. How do you go about reaching veterans who are off the campus?

Mr. PETERSON. Well, it used to be easier than it is now. Several years ago the American Legion was provided a list of discharged veterans which they made available to the school where we could go out and find them.

Since that time this list is no longer available. The Department of Defense does not make it available. But there was provision in the last law, 94–502, which allow large campuses to apply to the Veterans Administration if they were to pay for the programming features of this, and then have this list sent to the campuses.

For my particular campus, that list cost me $856 to get, but in a recent regional meeting out in Denver I was the only school, and they——

Mrs. HECKLER. What is the name of your school?

Mr. PETERSON. Weaver State College in Ogden, Utah. I was the only school in that entire region six that had received this list or had the money or knew about it, even, to get the list.

Mrs. HECKLER. Now I have been told that your agency advertises very aggressively to reach out to students. Is that true?

Mr. PETERSON. Part of the regulations indicate that we will use mass media advertising to let the veterans know and to put outreach workers in the places where veterans might congregate.

Mrs. HECKLER. Would you please provide a copy of your regulations for our record.

Mr. PETERSON. Yes.

Mrs. HECKLER. Would you accept that, Mr. Chairman.

Mr. MOTTL. Surely.

Mr. PETERSON. I will make sure that the committee receives a copy.

Mrs. HECKLER. I raise these questions, Mr. Chairman, because one of the charges by the Veterans' Administration against the college was that their outreach program and advertising was too aggressive, and they claim that it was no different from the VCIP advertising program, and I would like to assess the validity of those statements, et cetera.

If we are going to have benefits utilized, we have to have outreach. And we want effective outreach. And of course we want the outreach to stress education, however, not just benefits. I mean it's not a money outreach, it's an educational outreach.

Mr. PETERSON. Mrs. Heckler, I might say there that all of us have an appeal for more money. Now we know that the Vietnam era veteran is more unemployed than the rest of the populus.

Mrs. HECKLER. Do you have any figures on that?

Mr. PETERSON. Well, right now the Vietnam era veteran is about 19 percent unemployed, the minority vet around 23.7 percent. It varies across the country, but one thing that is going to appeal to those unemployed veterans is the money aspect that they can make while they are attending school, and the money aspect has to be shown somewhere in the advertisement.

Now, I think a school that advertises merely to come to school to get the money is wrong. But the fact that they can make money while they are attending school, and increase their employability, is a very important part of the advertisement.

Mrs. HECKLER. Of course the Congress never intended to provide the benefits so they could make money. The point of the benefits was to allow them to cover their costs and to go to college, and then get an education.

Mr. PETERSON. Yes ma'am. I appreciate that. They are not making money, but the fact is, when you are faced with high tuition costs to get into the institution, and they're not being paid for by the VA, and even now when the prepayment is taken away, or the advance pay is going to have to be given only upon request, there are still going to be many, many veterans that are not going to get into school because they haven't the initial amount of money that is needed to apply for the tuition. They just do not have it, and the schools themselves cannot provide it.

Now our institution has a fund that is provided by private sources, which is unrestricted, in which we set up a fund that veterans can borrow from to get their tuition going. But even now, if they elect an advance pay in September, they will not get their first check until the beginning of November.

That's a long, dry spell with no money, and so these veterans have to have that.

Mr. Mottl. Mr. Lawson wanted to respond to your question, Mrs. Heckler.

Mr. Lawson. First of all, the VA testified in response to your earlier question that there are 2,957,000 trainees last year.

Mrs. Heckler. Does that mean students, or vocational trainees?

Mr. Lawson. Both education and vocational training.

Regarding the advertising, I think that problem is somewhat diverse because of the cost of education across the country. For example, schools in California are low tuition or no tuition. In New York State, Pennsylvania, some of the other States, there is high tuition.

I don't think it's a moneymaking venture. The veteran may be able to save in some cases $100, possibly $200 a semester in terms of after educational costs, so the money factor, in terms of attracting the veteran, is important to let a particular person know that there is an opportunity for them to go out and achieve educational training for viable employment. That is extremely important.

Mrs. Heckler. All right. I feel that in summary we have specific problems in terms of the two particular laws, and we have the question of employment, and so forth.

What I would like to have any of you gentlemen provide for the record, if it is available to you, that would be the placement figures showing the number of veterans who after educational benefits have been placed in jobs.

Would it be possible for you to provide that, Mr. Peterson? Could you get that from your college, for example? Weaver College?

Mr. Peterson. Would you state the entire request?

Mrs. Heckler. I would like to have a report made available on the number of veterans who have completed their course requirements—either for an associates degree or vocational education and the placement record, that is, what percentage have been placed in jobs. I would like this information so that we could have some idea of whether or not veterans educational benefits are leading to jobs. And if they are not, then we have to examine how we can make the program more effective to achieve that goal. With the staggering figures of 19 percent unemployed among Vietnam veterans, we have a very serious public policy question here.

So I would like to have those figures.

Could you provide them from your agency?

Mr. Peterson. We will certainly try to see what we can get.

Mrs. Heckler. Would you then respond to the record—Mr. Chairman, I ask unanimous consent to have these figures inserted in the record.

Mr. Mottl. Yes; they will be so submitted by Mr. Peterson to the best of his ability to gather same.

Mrs. **Heckler**. I would also ask that his statement, his response——

Mr. **Mottl**. Be submitted for the record?

Mrs. **Heckler** [continuing]. Be submitted, yes.

Mr. **Mottl**. Without objection, it will so be submitted. Mr. Lawson, did you have a response to Mrs. Heckler's question?

Mr. **Lawson**. Yes, sir, Mrs. Heckler, I just hope that when such data is made available that you keep an open mind, because having been in education for the past 6 or 7 years, I have friends of mine who have Ph. D.'s and masters degrees walking streets because there are simply no jobs available. To say that we are spending money to educate our veterans population, and they aren't becoming employed, I think we have to take into consideration what the job market is, and if the jobs are available.

I hope that if we see the large number of veterans that have gone on through education and training programs that are not employed that we do not say, "Well, we are wasting our money by educating veterans."

Mrs. **Heckler**. I certainly would not take that point of view, because I feel that veterans education is deserved. My interest in the future employment of the veteran relates to the question of whether or not we are giving them any career guidance, whether or not we are counseling them to further their education in a course of study that can ultimately lead to a job.

But I have that problem with the whole society, with the young people and middle-aged people I know who are unemployed who were encouraged to be teachers when we have a glut of teachers and engineers when we had that glut, et cetera.

I think that now we are talking about veterans. What we owe the veteran is to give him some guidance in terms of knowledge about the job market, future job openings, the directions of the economy, and then allow him to make his choice as to what he or she wishes to study, but with a more sophisticated understanding of what opportunities might be available after the course is completed.

Mr. **Mottl**. Mr. Peterson, did you have a remark?

Mr. **Peterson**. Yes; Mrs. Heckler, I think in due respect to what you are asking, we would find, if we gave the employment record for—the placement record of all college graduates, not veterans——

Mrs. **Heckler**. Yes.

Mr. **Peterson** [continuing]. Singled out, you would find that, as Mr. Lawson indicated, many, many college graduates just cannot find placement today.

Mrs. **Heckler**. Yes; I understand that completely, but we would like to do something for the veterans here. That is our great mission, and therefore I see that we are doing less than we should do in terms of counseling, in terms of career guidance.

In view of these statistics, I would like to say that not every college graduate receives his or her education from the Government. When the Government intervenes, it apparently wishes to assist a person for some reason or another. I think we should go to the next step and make sure that our assistance is valuable, that it truly enriches their lives.

Now, I also think it can be useful to learn for the sake of learning, but we have to be practical also. They must earn a living at some point. And whether we should put more emphasis on sophisticated vocational training is a very open question in terms of the skill needs of the society.

Mr. MOTTL. I have a question for Mr. Weil. How many veterans are members of the American Veterans Committee?

Mr. WEIL. The last published figures that I saw is approximately 25,000.

Mr. MOTTL. Thank you. Of this number, how many or what percentage are Vietnam veterans?

Mr. WEIL. I have no hard figures. Our Vietnam membership is not very high. We do have four Vietnam veterans on our national board and we work closely with many Vietnam veterans' groups.

Mr. MOTTL. Do any of your members have problems being trained under the GI bill because of provisions of Public Law 94–502?

Mr. WEIL. We get reports of these difficulties from veterans all over the country. However, Mr. Chairman, may I take advantage of the opportunity to call one additional thing to the committee's attention?

Mr. MOTTL. Yes.

Mr. WEIL. This is something I thought of during the deliberations. I am not sure whether the 85–15 provision, when it looks at sources of Federal money other than VA, includes the money given to the American Indians by the Bureau of Indian Affairs. If it does, then it may be almost impossible for veterans to attend some of the colleges and junior colleges with high concentrations of Indians, because most of those are getting Government money and this might operate to bring the 85–15 rule into operation very much earlier than in the average college. Perhaps the committee might want to look at this aspect.

Mr. MOTTL. Yes. I understand assistance for Indians attending school is not counted on the 85 percent side of the rule. BIA assistance is automatically waived. The controlling regulation by the VA is as follows:

DVB CIRCULAR 20–76–84—APPENDIX H, REVISED

4. *Waivers.* The following waivers for 85–15% computation have been determined by the Administrator to be in the best interest of veterans and the Federal Government, and authority to apply them is hereby delegated to all station Directors. [Note that when a type of assistance received by a student is waived, that student must still be counted in the ratio. However, that student will be counted in the non-VA, nonsupported portion of the ratio as a result of the waiver. (See subpar. f.)

(3) Waive counting all forms of Federal assistance other than BEOG and SEOG. Specific examples of this type of waiver are benefits administered by the Social Security Administration, Federal grants supporting specific programs such as law enforcement (LEEP, Safe Cities Act grants), nursing, etc., Government Employees Training Act support, and tuition paid by an Armed Service to active-duty personnel. No specific application is required for this waiver.

Thank you, Mr. Weil. Mr. Stover has some questions he is going to proffer on behalf of Mr. Walsh here, and if the panel would respond accordingly.

Mr. STOVER. There are questions that Mr. Walsh wanted to have asked. The first one is directed to Mr. Schwab.

He said he wants to call your attention to a statement that was made yesterday, Mr. Schwab, by one of the witnesses, which goes as follows:

> Only after discharge is the veteran confronted with an administrative posture by the VA that his benefits are a mere gratuity. One is unable to find such an announcement at a recruiting station.

As a VFW spokesman in daily contact with the committee, the Congress, and the Veterans' Administration, do you have any reaction to that charge?

Mr. SCHWAB. We have not heard that. I think all the veterans today are intelligent enough and certainly apprised of the fact that it is an earned entitlement and a readjustment benefit and not a gratuity.

Mr. STOVER. Another question here refers to your statement that while the VFW is concerned initially with the 85–15 rule that that concern has been allayed by the VA waiver of the rule for schools fits. And I might paraphrase here that the Veterans Administration spokesman, Mr. Andrew Thornton, indicated about 95 percent of the schools of higher learning have now accommodated to the 85–15 rule because of this interpretation of the 85–15 rule provision, which is waived for those who have not more than 35 percent veterans in their student enrollment.

In view of that fact, as you have said in your statement, that waiver followed the VFW's expressing its concern to the VA. Are we not to accept this as a demonstration of the VA's efforts to cooperate too, as they have testified, to grant waivers wherever and whenever reasonable and practical, while remaining within the law?

In other words, in your experience, have these waivers been granted, or have there been any abuse of the granting authority or failure to grant the authority, that you know of? I'm talking about waiver of the 85–15 rule.

Mr. SCHWAB. Well, no abuses have come to my personal attention, Mr. Stover. In fact, only one college that complained was a junior college in Pennsylvania that had an enrollment of less than 1,500 and more than 1,200 were Vietnam era veterans.

Mr. STOVER. OK. I guess he had another question for you. It's addressed to you here. It says in your text you speak of the abuses that flow from the designing of curriculum and establishment of college branch locations, some junior colleges, with the sole purpose of attracting veterans.

Now, how do you reconcile those abuses in that statement with a complaint such as we heard yesterday that the 85–15 and 2-year rule are violating academic freedom, are unconstitutional, are not necessary, not doing the job, those complaints coming from spokesmen for the very character of the institutions to which I have referred?

Mr. SCHWAB. I think the necessity for the 85–15 rule was—as I pointed out in my testimony—brought forth by the abuses of the World War II GI bill. It has subsequently been in every GI bill since then. That would be my answer.

I think that I pointed out that most of the complaints we have heard have been from the very institutions that the 85–15 rule was meant to restrict.

Mr. Stover. The next question is directed to Mr. Peterson, who told the subcommittee, according to a study by your organization that the average cost per student to carry out the requirements of the 85–15 and 2-year rules is $46.40. Were you then recommending that by the Congress increasing the reporting fees to that amount—meaning $46.40—that you then would no longer take any issue or object to the 85–15 and 2-year rule?

Mr. Peterson. Mr. Chairman, in response to that I would have to say that as personal representative of a school that has as high as 3,300 veterans and now presently has 2,200 veterans, that we live by the 94–502 provisions, practically 100 percent, but in doing so it takes five full-time people to ride herd and monitor those veterans' records and provide the VA with the data.

If we were given the $46.40 per veteran, yes, we could carry out the provisions of 94–502 as they are written. Because then we could police the action of these veterans and report to the VA as needed.

Mr. Stover. Do any other Federal agencies, or any other educational programs, pay a reporting fee for the service, like BEOG, SEOG, and any other aid programs?

Mr. Peterson. Not a reporting fee, per se, but there is a percentage of the amount of money assigned to that institution that can be used to offset the cost of running those offices, and we see that on our campus. We get a mere $10,000. The financial aids office gets $55,000 to $60,000 to run their office.

Mr. Stover. Those, Mr. Chairman, complete the questions that were presented.

Mr. Mottl. All right, thank you, Mr. Stover. Is Mr. Byrd present now?

Mr. Byrd. Yes.

Mr. Mottl. Do you have any comments that you would like to add before we conclude?

Mr. Byrd. Thank you, sir. I would like to make two quick ones, one to the last question.

The $46 figure was attained prior to implementation of 94–502, and so after 94–502, with the 85–15 and 2-year rule, and various other appendices and restrictions, our estimate is that it would easily double, and so this $46 figure is a very, very conservative figure.

Now, being able to perform the requirements of the law, and believing that those are the best means of dealing with the situation, are two different things. Yes; I imagine with adequate money and staffing, institutions could certainly comply. But I think there is a more important question at stake.

Getting back to something Mrs. Heckler brought up, which I tried to address yesterday—I didn't have the time to do that—I think we need to be very, very cognizant of our failure to be preventive and to use and employ preventive maintenance, and I think that counseling situations are where we should really concentrate.

If veterans have been properly counseled and have proper counseling available to them, a student can manage his abilities, his interests, and the job market. Getting a degree in CNBA, as opposed to a specific area of computer sciences, would make all the difference in the world whether he gets the job and is a successful contributing citizen.

The counseling program that is available right now is not adequate. I am not saying that the VA personnel are not qualified. I am not saying that they are not trying to do a good job, but when a veteran has to drop out of school or stop school and travel a 100 miles or 60 miles for a 4-hour session, and that is the first and last counseling session that he has, there is very little that can be done in the area of career development, career education, job placment, planning, followup, and this sort of thing.

That is why the suggestion that I presented yesterday was meant for those veterans who are interested in career development and career counseling. Let them use 1-month entitlement, $292 for a single veteran, to go to a VA-approved contract counseling center, hopefully on the university campus or in the institutional area, and the center can start this counseling and carry this on through during the time the veteran is enrolled in school, all the way until he is placed in the job environment.

Mrs. **Heckler**. Mr. Chairman?

Mr. **Mottl**. Mrs. Heckler.

Mrs. **Heckler**. Yes, I like that idea, Mr. Chairman, but I will say I am very familiar with the limitations of all the counseling available to students. That isn't just veterans. Counselors are not necessarily privy to the best information, and I would suggest that this committee, since we are concerned with veterans' education, might be able to meet their needs and serve the whole society if we could call in the members of the Cabinet and the speakers from all of our agencies, our major departments, and let them project for us the job opportunities in their specific fields for the next decade and the next 20 years.

That information could help all of the career counselors at every level of our society, and would certainly make our veterans' programs more effective. The information could be transmitted through the veterans' counseling agents.

I've spent a great deal of time on this subject, and in my district, in studying two high school situations, one a comprehensive high school which is the general high school in one community, the unemployment rate of a high school graduate who did not go on to get a college degree is 50 percent. And we do not have a minority situation, so this is for anyone, the average person.

The job placement rate in the same town for a vocational school graduate was 94 percent. The present rate of unemployment for a college graduate is exceedingly high, and I have Ph.D.'s in my district, and I'm sure you do, Mr. Chairman, who are looking for jobs and are not considered because they are regarded as being overqualified.

The employment problem is very, very difficult. One of the problems we face is a lack of knowledge of what the future directions of the society will be so that training can match job opportunities. I would hope, Mr. Chairman, that we could embark on a series of high-level discussions in this committee to develop some understanding of the specific nature of the job openings and career opportunities in the various departments so that we can apply that knowledge to the veterans education program and then make it available to other committees.

Mr. MOTTL. I think that is an excellent idea. Mr. Stover, we can consider a hearing exclusively for that purpose. We would have the administration come here and the proper agencies testify. I think this could be most helpful to the veterans for potential job opportunities, as well as to other members of our society.

Mrs. HECKLER. Thank you, Mr. Chairman.

Mr. MOTTL. On behalf of the Chair, Mrs. Heckler and the subcommittee, we would like to thank all of you gentlemen for your excellent statements and your candid answers to our questions, and for being so cooperative.

Thank you very much, and we will adjourn until next week.

[Whereupon, at 11:55 a.m., the hearing was adjourned to reconvene subject to the call of the Chair.]

[The following statements were submitted for the record:]

PREPARED STATEMENT OF C. DENNIS MCCLURE, AMVETS NATIONAL SERVICE AND LEGISLATIVE DIRECTOR

Mr. Chairman and Distinguished Members of the Subcommittee: As the National Service and Legislative Director of a major veterans' organization, I am grateful for the opportunity to present the views of AMVETS to your Subcommittee on the vital issues germane to veterans' education and training programs.

We are generally pleased with the provisions of PL 94–502 as those provisions relate to the rate increases for benefits under Chapters 31, 34, 35 and 36 of Title 38, U.S. Code. We are pleased also with the nine additional months of entitlement under Chapter 34. We continue, however, to be concerned with the January 1, 1977 enlistment deadline to qualify for Chapter 34 benefits.

As stated by National Commander McDonough in his Testimony before the full Committee on March 24th, we fear that the elimination of education and training benefits such as those provided for in Chapter 34 will adversely affect the future recruitment of military personnel. It is the belief of AMVETS that the contributory and matching fund provisions contained in the new Chapter 32 benefits is not responsive to the needs of personnel who entered military service on or after January 1, 1977. We feel that these provisions create a disparity in veterans' benefits.

We reiterate our proposal to eliminate the Flight Training Program and to redirect the funds saved by the implementation of that proposal toward sincere vocational rehabilitation, education and training programs.

AMVETS will be honored to submit our views to your Subcommittee on the provisions of PL 94–502 as they pertain to veterans' employment assistance at the hearings scheduled for April 27th. We wish to state at this time, however, our disappointment of the Administration's failure to appoint a qualified, experienced veterans' employment specialist to the position of Deputy Assistant Secretary of Labor for Veterans' Employment.

In conclusion, Mr. Chairman, on behalf of Commander McDonough and the AMVETS organization, I wish to extend my sincere thanks for the opportunity to express our views and we look forward to working with you and your Subcommittee on all matters of mutual concern.

PREPARED STATEMENT OF R. E. LYNCH, DEPUTY DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Mr Chairman and Members of the Subcommittee: The American Legion appreciates the opportunity to present its views on Public Law 94–502, the Veterans' Education and Employment Assistance Act of 1976.

My remarks on this occasion will be confined to Titles I through V of the Act. Comment on Title VI, Veterans' Employment Assistance Provisions, will be presented by another representative of our organization, who is responsible for American Legion interest in veterans employment matters.

Public Law 94-502, which was approved by the President on October 15, 1976, is comprehensive legislation that effects substantial changes in veterans vocational rehabilitation and education programs. The American Legion supported enactment of this law, as good and necessary legislation. Our observation to date is that it is working well, and is accomplishing the intent of Congress in enacting it.

Perhaps most notably, the Act increased by 8 percent, the subsistence allowance and the education assistance allowance paid under chapters 31, 34 and 35 of title 38, United States Code. It also effects certain other monetary changes including increases in monthly rates payable for apprenticeship, on-job-training and correspondence courses, under chapter 36. All of these changes are responsive to inflationary pressures affecting cost of living and cost of administering programs, and they have had a salutary effect on the ability of veterans to use the programs concerned.

The inflationary pressures that made necessary the changes accomplished by Public Law 94-502, continue to operate, and we believe that further changes are going to be necessary during Fiscal Year 1978. We intend to address this problem when another opportunity is provided us to appear before this Subcommittee.

Public Law 94-502 removed the restriction to undergraduate use of the 9 months of additional benefit granted in 1974, thus allowing a maximum of 45 months of eligibility for approved programs of education, including graduate work. We opposed the earlier restrictions on the additional months of training, and we believe their removal by this Act was equitable and enhances the readjustment intent of the programs.

Title II of the Act extends the 85/15 rule to make it encompass most programs of education. While implementation of this provision has been to some degree controversial within the education industry, The American Legion has supported it, as justifiable and necessary to reduce the incidence of abuses such as occurred in earlier readjustment programs provided for veterans. While some objection has been voiced to us regarding the inhibiting effect of this provision, we must say that so far, such objections have not been either detailed or comprehensive enough for us to form a conclusion resulting in a recommendation on the matter to this Subcommittee. We shall continue to be alert for reports from Legion representatives across the country, concerning the effect of the 85/15 rule, and any significant information we receive will be forwarded to the Veterans Adminstration.

Title IV of the Act establishes December 31, 1976, as the termination date for establishing eligibility for veterans' education and training benefits under chapter 34 of title 38, USC. The American Legion recommended to Congress that it would be appropriate to establish a termination date for chapter 34 programs, following the Presidential Proclamation terminating the official period of the Vietnam War. Chapter 34 programs, as was true of earlier education and training programs, were intended as readjustment programs, to respond to the needs of the men and women who served during a period of hostilities. We believe it is important to the American people that these programs shall be identifiable as a cost of war, and that consequently they should be terminated when the war is over. The date of December 31, 1976 is consistent, in relation to the Vietnam War, with termination dates established for earlier wars, and we believe this provision of the Act is appropriate.

Title IV further establishes a new chapter 32 within title 38, entitled Post-Vietnam Era Veterans' Educational Assistance. This program is a response to expressed desire of the defense establishment, the education industry and others, for a post-service education assistance program, designed to enhance the acceptability of the all-volunteer Armed Forces to young Americans and to strengthen the education industry. The American Legion has expressed no opposition to this concept. Our position, however, has consistently been that such a post-service education assistance program should be identified as such, and should be funded as a concomitant cost of maintaining the defense establishment, and that it should not be commingled with the readjustment programs provided for veterans of the Vietnam Era. This continues to be our position on this new education assistance program.

It should be noted that Title IV of the Act, also amends section 1662 of title 38, to provide that December 31, 1989 shall be the final date for completion of programs under chapter 34. We believe this date is consistent with termination dates established for earlier programs, and we support its inclusion in the Act.

Title V of the Act makes significant changes in provisions for advance payment of education assistance allowance, and terminates provision for prepayment of benefits, as of June 1, 1977. The American Legion was aware of the situation prevailing that led to establishment of advance and prepayment of benefits by earlier legislation. Congress was indeed responding to a critical situation affecting large numbers of veterans. As it developed, however, advance and prepayment of benefits created as many problems as they solved, and measurably contributed to the totally unacceptable level of overpayments that confronted the Veterans Administration.

To date we have received in our office, one complaint about hardship to veterans that will result from these changes. While we are somewhat apprehensive about what may happen after June 1 of this year, we are equally concerned about eliminating the unacceptable level of overpayments, with its attendant adverse effect on the public comprehension of the administration of veterans programs.

Title V, also tightens up the application of the 2 year rule. We have been made aware that there is dissatisfaction among some education institutions about the effect the two year rule is having, especially on overseas institutional programs, many of them established under contract with the Department of Defense. Our present reaction to the situation as we understand it, is a conservative one, in that we are not aware of any generalized adverse effect on programs provided for and available to the greatest number of veterans, those who expect to complete their education in institutions within the United States. If our current perception of the situation is accurate, we could not see our way clear to recommend to Congress any modification of the two year rule that would diminish the salutary effect it is intended to have on the operation of programs of education benefiting veterans.

Mr. Chairman, as we stated at the outset of this presentation, there are a considerable number of significant changes in the vocational and education assistance programs that are affected by Public Law 94-502. We believe the legislation is sound in that it is having a good effect on these programs of readjustment for Vietnam Era veterans.

Mr. Chairman and Members of the Subcommittee, that completes our appraisal of Public Law 94-502 at this time.

VETERANS EDUCATION

WEDNESDAY, MAY 4, 1977

House of Representatives,
Subcommittee on Education and Training,
Committee on Veterans' Affairs,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 334, Cannon House Office Building, Hon. Ronald M. Mottl (chairman of the subcommittee) presiding.

Mr. Mottl. The subcommittee will now come to order.

When the hearing schedule of the subcommittee was published earlier this year, it was planned to hold hearings on a number of proposals, including two bills, H.R. 917 and H.R. 2102, which propose cost-of-living increases in the veterans' education and training payments together with other bills which would amend Public Law 94–5402.

In the meantime, however, a decision has been made to hold hearings on cost-of-living increase bills at a date to be announced later. At that time the subcommittee will invite the Veterans' Administration to testify and reports will be available on estimated cost-of-living increases for veterans education and training since the last increase which went into effect October 1, 1977.

Today the subcommittee is pleased to have scheduled Members of Congress who have bills pending before the subcommittee which propose to amend the 85-15 and 2-year rules.

Our first witness is the Hon. James H. (Jimmy) Quillen of Tennessee. It is a great honor to have such a distinguished Member of Congress before us this morning. We are very interested in his testimony and also his distinguished constituent from Tennessee, Mr. Steed.

Mr. Quillen, you may proceed.

STATEMENT OF HON. JAMES H. (JIMMY) QUILLEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. Quillen. Thank you, Mr. Chairman. I am delighted to be here and participate in the hearings this morning. You are mighty kind to have me as the first witness and I am deeply grateful.

Mr. Chairman, and members of the subcommittee, I am grateful for the opportunity to appear before you today with my friend, Mr. Howard S. Steed, the president of Steed College in Johnson City, Tenn. I appreciate the courtesy you have extended me and to President Steed, who will testify about some of the probems that have been encountered at Steed College relating to the "85-15" and "2-year" rules of Public Law 94-502.

As you are aware, I am the author of a bill (H.R. 3440, H.R. 3441, H.R. 4316, H.R. 6279) cosponsored by 32 of our colleagues which strikes out the language of these two sections and inserts the exact language of the law prior to the enactment of Public Law 94-502. The bill returns the law to what it was regarding the "85-15" rule and the "2-year" rule. That is all it does. It makes no other changes.

It appears to me that these two provisions were aimed at curbing the activities of disreputable "diploma mills" specializing in attracting veterans eligible for educational benefits. Many of these "schools" do not require attendance at classes or deliver a quality educational product. There have even been cases where veterans enroll only to collect their benefits and the "schools" collect for courses that are never taught. Such abuses are a fraud against the American taxpayers and must be stopped. I commend the members of this subcommittee on your efforts toward halting these disgraceful practices. These efforts have produced results. But we all know that we must be careful not to penalize legitimate educational institutions such as Steed College and sincere veteran students in our efforts to root out the offenders.

It seems to me that these two provisions of Public Law 94-502 discriminate against good schools and sincere students. It just does not seem fair to restrict veteran students from receiving their benefits while at the same time permitting other students enrolled in the same course to receive their educational benefits.

The new "2-year" rule, likewise, seems somewhat arbitrary. Old, established courses are not at all necessarily superior to new and innovative instructional approaches. Again, we need some flexibility here.

I know this subcommittee will weigh these issues fully before coming to a decision, and that the decision reached will be fair and equitable. Thank you again for the opportunity to testify on behalf of my bill, and now I would like to defer to my friend, President Howard Steed.

I would like to present a good friend of mine, a man whom I have known for many years, President Howard Steed of Steed College, an institution with operations in many of the cities of my congressional district. He operates schools for the benefit of veterans, veterans who receive jobs, veterans who receive a good education, veterans who go forward to pave a new way of life.

At this time I would like to present to you my friend, President Howard Steed.

STATEMENT OF HOWARD S. STEED, PRESIDENT OF STEED COLLEGE, JOHNSON CITY, TENN.

Mr. MOTTL. Mr. Steed, before you proceed, I want to thank the distinguished gentleman from Tennessee for his outstanding statement and for being present before our subcommittee. We are looking forward now to your statement and you may proceed.

Mr. QUILLEN. Thank you, Mr. Chairman.

Mr. STEED. Thank you very much; and again, thank you, Mr. Quillen.

Mr. Chairman and members of the committee: I am pleased to have this opportunity to testify before this distinguished subcommittee regarding Public Law 94–502, the Veterans' Education and Employment Assistance Act of 1976. Specifically, I would like to briefly relate the effects certain provisions the Veterans' Administration's regulations for implementing Public Law 94–502 have as they relate to Steed College and, in addition, propose possible alternative methods for implementing this important legislation in the higher education community.

Steed College was established July 2, 1940, in Elizabethton, Tenn. During the organization of the college, the founders had in mind a broad field of general and cultural training as well as vocational preparation for business and industry. During the 1950's, the college developed a plan of expansion to both broaden its physical facilities and its academic program. In 1961, Steed College was granted its charter by the State of Tennessee as a nonprofit institution of higher education with control vested in a board of trustees. During the 1970's, a student outreach concept was initiated based on the premise that students had the right to receive a quality collegiate education within their home country. This, of course, necessitated the establishment of county-related centers to serve as additional educational facilities supplementing the main campus in Johnson City. The first of these centers was established in Kingsport, Tenn., and with the proven success that resulted, additional centers were opened in Elizabethton, Tenn.; Greenville, Tenn.; Memphis, Tenn.; Bristol, Va.; and Springfield, Mo. The successes of these concepts reinforced Steed College's basic philosophy of providing every possible service to its students. The establishment of these centers now allows Steed College to serve more efficiently the greater part of the southeastern Appalachian region.

Steed College is fully accredited as a senior college of business by the accrediting commission of the Association of Independent Colleges and Schools (AICS). It is authorized to grant both the associate degree and bachelor of science degree in business administration.

The Appalachian region provides a unique opportunity for higher education institutions such as Steed College to introduce an academic program that would enable students with limited educational backgrounds to advance their educational and occupational potential to levels previously deemed unattainable. More than 80 percent of the current student population at Steed College falls within a category of first generation college students. In excess of 40 percent of the students did not complete their formal high school education, but were admitted upon a completion of the General Education Development Test (GED).

Steed College is a participating institution for all Federal programs of financial aid to students. This includes the basic educational opportunity grant program, the supplemental educational opportunity grant program, the national direct student loan program, the federally insured student loan program, the college work-study program, the Comprehensive Employment Training Act program, and the vocational rehabilitation program. In addition, Steed College has been approved by the Veterans Administration for the training of veteran students. Steed College also provides a limited number of scholarships to deserving students who demonstrate exceptional financial need, who offer a great academic promise, who are able to offer exceptional service to the college, or any combination of these needs.

To further meet the needs of our students, Steed College has developed a somewhat unique concept in educational financial assistance through a program entitled the "USA Program" or utilize student activities. This program alows a student to reduce the expense of an education and at the same time gain experience by using classroom skills in Steed's student-related industries.

The point I am trying to make is that Steed College is concerned for the student. He is given every opportunity to financially afford the education that he needs in order to successfully compete in the limited job market today. However, in reviewing certain provisions of Public Law 94–502, Steed College foresees serious problems for the veteran student in our area and his rights to his benefits. Specifically, these provisions are the 85–15 ratio requirement, the 2-year rule, and the stndards of progress regulations.

Steed College understands that the officials of the Veterans Administration are under a tremendous burden to deal with the problems of excessive overpayments created by the prepayment and advance-payment system. Steed College also recognizes that, according to previous Veterans Administration testimony before this committee, much of this problem has now been solved. It is Steed College's contention that the 2-year rule, the 85–15 rule, and the standards of progress do nothing to eliminate the poor reporting and the advance payment problems.

Over the years, Steed College has attempted to cooperate with the Veterans Administration in both Washington and the regional office in Nashville, Tenn., in support of quality education for all students, including veterans, survivors, and war orphans. In reference to the 85–15 requirement, Steed College asks Congress to return the 85–15 policy as it was prior to the passage of Public Law 94–502. At the very least, we feel that the 85–15 requirement should be amended to limit it strictly to a nonveteran computation base whereby the student who receives BEOG, SEOG, or other State and Federal forms of institutional grant money can be computed on the 15-percent side.

This is especially true in view of Steed College's relationship to the Appalachian region which it tends to serve. Presently, Steed College has approximately 28 percent of its enrollment on federally funded assistance other than veterans benefits. Much of the educational community in Appalachia, as with most all higher educational institutions in upper east Tennessee and southwest Virginia, are participants in a vast and complex system of Federal student assistance and consequently the enrollment practices of Steed College are dramatically affected by participation in all Federal aid programs. The primary effect of the 85–15 formula is that it would require virtually 90 percent of Steed College students be classified on an 85-percent side of the formula. This would eliminate any further recruitment of veteran students in a region where the majority of the students cannot afford to pay their own way to college.

In reference to the 2-year rule regarding extension programs, as an academician I have found that a period of time such as 2 years is little indication of the quality of a course, especially in view of the stringent requirements for receiving accreditation and approval from a State approval agency. In fact, it is my experience at Steed College that a new program such as fashion merchandising, aviation management, agribusiness, and data processing, which were introduced into the curriculum in the summer and fall of 1976, is probably going to be better than an old program because it has recently been reviewed and considered as to its academic quality and its relevance to the marketplace. If you are training students for positions of employment in careers in private business, in many cases older programs have not been reviewed and may be completely out of date but are still offered simply because no one has bothered to take a recent look at them.

The primary effect of the 2-year rule on Steed College is in the prison education program that we have initiated in Springfield, Mo. The philosophies of Steed College have been traditionally directed toward service to the students. In 1973, a new concept of service to the nontraditional college age group was conceived. The implementation of this philosophy led ultimately to a realization that in dealing with the nontraditional college age student, educational backgrounds do not serve as a significant predictor of college success.

Many of the students actively recruited into this continuing education program had negative educational experiences on the high school level or a bad academic record. In addition, many students had not completed the requirements for a high school diploma. These students since have developed a perception of the college classroom as comfortable surroundings and have demonstrated an ability to perform successfully. Much of this success can be attributed to their high motivation, having completed the transition period, and to their realization of the value of practical job-oriented education. Because of the successful development of these students, Steed College began to examine other areas where similar programs could be an effective service, including a program of postsecondary education in Federal correctional institutions. Discussions with correctional officials and organizations interested in attacking this high rate of recidivism, including the National Alliance of Businessmen and the National Association of Concerned Veterans, indicated a need for practical job-oriented education for the inmates in today's correctional institutions. It seems apparent that many of the difficulties of finding employment for individuals released from correctional institutions could be counteracted by providing employable skills in areas of management, accounting, and office administration.

Consequently, a pilot program utilizing Steed College's expertise in dealing with nontraditional college-age students was implemented at the Medical Center for Federal prisoners in Springfield, Mo. The purpose of this program was to determine inmate interest and motivation toward a postsecondary program, the practicality of conducting classes in a correctional environment, and the response of the inmate student to the transitional programs of the college. The Springfield institution was selected as a location for the pilot program because of the interest evidenced by the educational personnel of the prison and because the prison had a relatively limited body of student inmates with which to work. Initial classes were started April 12, 1976. The initial individuals were selected for participation in the pilot program based on their interest, the representation of the correctional population as a whole, and that they held either a high school diploma or a GED equivalency certificate.

The contract was drawn between Steed College through its Springfield, Mo., extension and the Federal Medical Center in Springfield, Mo., through the prison's Director of Education. Under the terms of the agreement, Steed College would provide qualified instructors and accredited courses to the inmate student. The program would be supervised by the Director of Education in the prison but totally paid for by the individual inmate student. Each student would be responsible for the tuition and book costs incurred while enrolled in the program.

The program was designed to be self-sufficient in terms of instructional costs and would not be subsidized by the Federal Government other than through student financial assistance programs such as the basic and supplemental educational grant programs and veterans educational benefits. Administrative costs were to be borne by Steed College. However, in support of this program of education for the incarcerated student, Steed College has received a verbal commitment of $5,000 in funding from the U.S. Bureau of Prisons to supplement administrative costs incurred in the development of the education program in other federal prisons.

Subsequently, Steed College has contacted seven Federal prisons and prepared an application for funding of this project by the Federal Government. However, all these plans are being held in abeyance until the full impact of the Federal regulations implementing Public Law 94–502 can be determined. As a result of Steed College's efforts over the past 12 months, our institution has instructed more than 150 students, including approximately 25 veteran students. However, because this program was less than 1 year old when the effects of Public Law 94–502 were implemented, Steed College was required to discontinue the enrollment of additional veterans. To Steed College this appeared highly unfair to the veteran student in that he had no other choice of program or a postsecondary opportunity to which he could avail himself. Steed College has continued to offer the program to all incarcerated students and is finding continued success. So much, in fact, that as recently as last week two state prisons in Missouri have indicated an interest in having Steed College provide for them the same educational services that are being offered in the Springfield Medical Center.

It is our intent to pursue this opportunity for higher education; however, again, because of the 2-year limitation, obviously veterans will not be able to participate in the program, and again, this seems unfair as they have no other place to go. Steed College is aware and appreciate that an administrator may waive the requirement of the 85–15 rule or the 2-year rule. However, we have been told by a regional VA administrator that there is no provision in the law for the 2-year rule to be waived in the case of our program in the Federal prison.

My point here is that there is no specific criteria for determining how a waiver is granted or what is in the best interest of the eligible veteran or the Federal Government. It is Steed College's contention that specific guidelines must be detailed in the regulations as to how an institution may qualify or how an individual may qualify for a waiver of the 2-year provisions of Public Law 94–502. When Steed College wishes to bring its curriculum to the people who have been previously, geographically or physically, beyond its reach, we should be encouraged—not impeded. Implementation of the 2-year rule is threatening to cause termination of college-level programs of education which a number of institutions such as Steed College currently provide.

When a veteran is paid educational benefits under chapter 34 for a course at an institution of higher learning, that course has been approved for veterans' training by the State approving agency. To impose a 2-year requirement creates arbitrary classification between extensions or branches which are less than 2 years old and those that are more than 2 years old. It appears to Steed College that this classification is not relevant to the stated purposes of the act and has no relationship to the task of curbing abuses and overpayments within the Veterans Administration programs.

Steed College believes that veterans have specific and readily identifiable needs in terms of educational programs and that special courses can be developed for them just as special courses have been developed for housewives, physically handicapped students, shift workers, and other groups with specific identifiable needs.

In fact, the Office of Education has designed programs for special services programs and handicapped student programs through title IV of the Higher Education Act much in the same way that veterans cost-of-instruction program funds provide moneys to institutions to help enroll and counsel students. These progams provide funds for institutions to enroll, counsel, and educate disadvantaged students.

Steed College does not concur in the opinion that programs that were developed especially for veterans by colleges and universities and which have a large percentage of veterans enrolled are bad. To the best of my knowledge this opinion has never been documented. I believe one could assume that colleges and universities that do have large numbers of veterans enrolled are more than likely to do a good job of reporting the status of those veterans and make sure there are not abuses simply because they have more experience at doing it and do not want to lose those large numbers of students. Steed College objects to this philosophy that is reflected apparently in Public Law 94–502. Steed College has found that if a class does contain, for example, 100 percent veterans, from an academic standpoint this is not a bad learning situation. As president of Steed College, I have visited in groups with hundreds of veteran students and have found that many veteran students share the apprehension that their military service-connected absence from the classroom for several years prevents them from competing successfully with fellow students who enter college directly from high school. Because of this fear of academic failure and because the veterans enjoy the social interaction with other veterans their age and the exchange of military experiences, veterans on every campus associated together in social and study groups.

Here I might add that as a veteran of the Vietnam conflict I can relate to the concerns of this generation of veterans.

If individual students can be kept in school where they can overcome the fear of failure and if assistance can be provided for them to reestablish their study skills in the areas of basic math and English, which Steed College does, then we find that a veteran can function either in a class of all veterans or all nonveterans effectively and that the ratio of success is better in a large percentage of veterans as opposed to those nonveteran students.

Steed College also feels that it is significant that the Veterans Administration, through the Office of Education and its veterans cost-of-instruction program, is providing funds to institutions that encourages the veteran to enroll in school, is providing funds for counseling, and in effect assisting him to reestablish himself in an educational, academic environment.

It is puzzling to me that on one hand HEW is providing funds through the VCIP program for veteran student enrollment and counseling, yet on the other hand the Veterans Administration as a result of Public Law 94–502 is imposing restrictive measures on institutions attempting to utilize these funds for enrolling and counseling veteran students.

My third area of concern today is that of the standards of progress regulations. Under section 307 of Public Law 94–502, a student veteran's educational assistance will be terminated at any time that the Veterans Administration decided that the veteran is not progressing at a rate that will permit him to graduate within the approved length of the course based on the training time mandatorily certified by the educational institution to the Veterans Administration. The institution must certify to the Veterans Administration the normal length of time it should take for each category of student to complete the course of study enrolled. Steed College feels that this is unfair to the veteran student, especially, as many are economically disadvantaged or educationally disadvantaged upon admission into school.

Other federally funded students, such as BEOG and SEOG students, can take additional quarters of work or a year or two to graduate and still receive their Federal funds as long as they remain in good standing with the school. Good standing element or standards of progress are required publication in accredited institutions and appear in every accredited institution's catalog. Good standing for students receiving Federal grants according to the Office of Education means that the institution in which the student is enrolled has determined that one, the student is making measurable progress toward the completion of his course of study.

Steed College feels that if the Office of Education is going to accept the standards of satisfactory progress as stated for the institution that the Veterans' Administration should also. The institution should be allowed to determine its own standards of progress which are approved by the various accrediting agencies and subsequently accepted by the State approving agency. Steed College has determined through a study of implementing the standards of progress regulations that the approximate cost will be an additional $8,000 a year for the paperwork to be done in the registrar's office. In addition, it is estimated it will be necessary to hire one additional counselor and clerical help in each of our extensions to do the counseling that will be required to serve the needs of the veteran student if this provision is enforced.

I wish to point out that Steed College has had adequate academic standards policy even prior to the requirement for those standards by the Veterans Administration and has, in fact, enforced academic standards for veteran students since the inception of the veterans program at Steed College. We have always complied with and enforced an academic standards policy that has been accepted by the students, the board of trustees, the accrediting commission, the Office of Education, and until passage of Public Law 94–502, the Veterans Administration.

For a relatively small school such as Steed College with a high percentage of veteran students enrolled in legitimate courses, a loss of benefits to these veteran students would substantially cripple many course offerings of the college. The impact of the 2-year rule, the 85–15 rule, and the standards of progress rule, if permitted to continue unrestrained, would threaten to inflict severe harm on Steed College and its veteran students, the very people the statute Congress passed was enacted to protect. The Veterans Administration's present approach to the overpayment and abuse problem has reasonably caused many school officials, faculty members, student veterans and their families to fear discontinuance of benefits. I might add we would be talking here about the fall of 1977.

Minority, low-income and educationally disadvantaged student veterans, many of whom were totally dependent for basic living expenses on their own benefits, are uncertain of their status and cannot plan their academic program with any confidence and are fearful of losing their veterans educational benefits due to the Veterans Administration's intended cure of internal administrative problems. Veteran students are becoming innocent victims of an administrative problem in which they have no voice.

For Steed College our admissions department is in a guandary concerning the admission of veteran students for the fall quarter in 1978 in that at the present time we assume the provisions will be reinstated in terms of the Federal and State grant recipients and their inclusion in the 85-percent side of the 85–15 ratio.

In order to control the abuses of the Veterans Administration educational benefits program the attempt should be made to regulate specifically the area of abuse, not create methods of control or attempt to control all Federal institution grant and loan programs including BEOG, SEOG, NDSL, college work-study, and CETA. Rather, Congress should instruct the Veterans Administration to specifically work to curtail the areas of overpayment problems. Methods that could be involved would include a review of the institution's veterans cost-of-instruction program, review of the annual compliance survey made at each institution, and review of the reporting system for the "Vet Rep on Campus Program" as to his working relationship with the institution.

The veterans cost-of-instruction program (VCIP), authorized in 1973 under title X of the Higher Education Act, is intended to provide improved and expanded services to veterans enrolled in institutions of higher education. Participating institutions such as Steed College are required to file with the Office of Education actual enrollment figures three times a year.

In addition, institutions are required to prepare a proposed operating budget, a fiscal operations report, and a program operations report. If this material as submitted to the Office of Education is reviewed there should be sufficient information collected for a determination to be made than an institution is complying with the regulations and is in fact providing services as required under law to benefit the veteran student. The validating of institutional veterans program could easily be determined through a greater emphasis on the reporting requirements by the institutions of higher education participating in the veterans cost-of-instruction program.

My second area of suggestion for implementing Public Law 94–502 is in the area of State approving agencies. Presently the Veterans Administration contracts with the State approving agencies in each State to act as its agent in approving schools and courses for VA benefits and to annually evaluate approved schools in such areas as curriculum, course instruction, grading policy, conduct, and the overall reporting system. If the Veterans Administration is going to contract for the supervision of the academic institutions, the Veterans Administration should require that these agencies enforce the rules that they have adopted for enforcement. Steed College believes that in lieu of the 2-year rule, a monitoring status be delegated to the State approval agencies to approve or disapprove new programs. This could be done in conjunction with acceditation which has been established for the programs through an accrediting agency approved by the Office of Education.

Thus the Veterans Administration can best cope with the problem of overpayment by utilizing the tools of the compliance survey and better internal management. Mr. Rufus Wilson, Chief Benefits Director for the Veterans Administration, has already stated before this subcommittee that he will increase the allocation of resources in the area of compliance surveys and collections and that the Veterans Administration will insure that the State approving agencies are requiring students and institutions to fully comply with the law. I believe, therefore, the Veterans Administration already has the necessary rules, regulations, authority, and intention to eliminate the overpayments and other abuses without resorting to the 85–15 and 2-year rules.

The elimination of the monthly prepayment of educational assistance benefits effective June 1, 1977, in conjunction with the specific request for an advance payment on the enrollment certification or on a separate document attached to the enrollment certification by the veteran student will also greatly reduce the problem of overpayments.

Another alternative for eliminating abuse is for the student to forward a transcript or certification of progress to the Veterans Administration or to the Vet Rep on campus for a determination of benefits for each quarter. Thus, the college would not be forced to assume the responsibility for determining benefits eligibility, nor would it have to perform the Veterans Administration's work which is of no benefit to the college. If the Veterans Administration insists on establishing its own requirements for academic progress, it should assume sole responsibility for their enforcement.

Steed College also recommends the creation of a formal educational task force composed of professional educators representing higher education and would include representation from the Veterans Administration, the State approval agencies, and from the Council on Postsecondary Accreditation. This committee would include input from the General Accounting Office, the Office of Management and Budget, and the Office of Education of the Department of Health, Education, and Welfare. In this way controversial matters of Public Law 94-502 can be discussed and recommendations and solutions derived in conversations between educators and the Veterans Administration with a common purpose—to cut absences, to utilize many of the forces available today in higher education, to insure quality educational programs, and, finally and most importantly, to provide a consistency in the relationship between institutions of higher learning and their regulatory agencies.

As an example, Steed College, because it operates in the States of Missouri, Tennessee, and Virginia, has found that different Veterans Administration regional offices will significantly differ in their interpretation of the law, creating a situation of confusion and ultimately unequal rights to both the veteran student and the institutions.

The Veterans Education Assistance Act has as its stated purpose: (1) Enacting and making more attractive service in the Armed Forces of the United States; (2) extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education; (3) providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty; and (4) aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country.

The challenged statutory classification created by the 85-15 requirement, and the 2-year rule, are clearly irrelevant to the stated purposes of that act. The percentage of veterans enrolled in any particular course or the fact that the course is less than 2 years old has absolutely no relationship to assisting economically and educationally disadvantaged veterans to obtaining a college degree.

Congress has specified in chapter 38, United States Code, sections 1771, 1772, 1775, 1776, 1777, and 1781 that Federal employees must be content to accept the accreditation by private associations recognized by the Commissioner of Education, such as AICS, and the approval of courses by State approving agencies as reliable authority on the quality of training offered by an educational institution. As a present serving commissioner of the Accrediting Commission of the Association of Independent Colleges and Schools (a COPA recognized accrediting agency), I can attest to our continuing concern for valid educational programs as well as the professional and academically sound management in the institutions we accredit.

Administration of veterans benefits does not entail control over schools. Steed College does not fully understand the relationship between the Veterans Administration's efforts to implement Public Law 94-502 and the overpayment problem. Surely Congress did not intend to repeal by implication control over institutions of higher education.

I wholeheartedly endorse the bill introduced by the Honorable James H. Quillen, H.R. 3440, a bill to amend title 38 of the United

States Code, to revise certain administrative requirements of the veterans educational program—more specifically, to eliminate the 85–15 and 2-year provisions of Public Law 94–502 and effectively return the legislation to its previous status.

Mr. Chairman, this concludes my comments. Once again, I thank you for allowing me this opportunity for presenting this testimony to you and your subcommittee today.

Mr. MOTTL. Thank you, Mr. Steed, for a very comprehensive statement. I have a few questions I would like to ask you if I may.

What is the present enrollment of Steed College?

Mr. STEED. Our present enrollment, as I indicated in my remarks, would be in excess of 1,900 students.

Mr. MOTTL. What percentage of those are veterans?

Mr. STEED. About 65 percent.

Mr. MOTTL. Mr. Steed, what percentage of the graduates of your institution find employment in the vocational objective for which they were trained?

Mr. STEED. I cannot give you an absolute statistic on that. A number of our students attending classes at the present time are working and, because of the courses they are studying at our institutions, are finding an upward momentum in the jobs they are now involved in.

We have seen many of these internal promotions within the industry or within the bank in which they might be working. I could not give an absolute statistic as to how many of these have moved laterally or vertically into another position.

Mr. MOTTL. If you could submit that information for the record, we would certainly appreciate it.

Mr. Steed, how much do you charge a veteran who is attending one of our courses full time and how much do you charge a veterans taking a course who is in prison?

Mr. STEED. Our tuition for every student this year is charged at the rate of $27.50 per quarter hour. The tuition would be the same for the student in the prison or the veteran or the nonveteran, regardless of who attended our classes.

Mr. MOTTL. How many of your students receive assistance from HEW known as BEOG or SEOG assistance?

Mr. STEED. Approximately 28 percent of our students are participating in some of the Federal assistance programs. That would include any of the Federal programs, the BEOG or the SEOG or the federally insured student loan.

Mr. MOTTL. You say you have received more than $150,000 for the VCIP program during these last 2 years. Do these VCIP administrators help in any way with your administrative requirements in carrying out the veterans programs?

Mr. STEED. Do we use these funds in carrying this out?

Mr. MOTTL. Do these VCIP administrators help in any way with your administrative programs in carrying out the programs?

Mr. STEED. If you will help me out, VCIP administrators would be who to you? As VCIP administrators, are you talking about HEW people or our own VCIP on campus?

Mr. MOTTL. Your own.

Mr. STEED. Certainly. They are very involved in serving the veteran population as the law requires that they be.

Mr. MOTTL. Mr. Steed, as my last question, how do you get along with the State approving agency in your State?

Mr. STEED. I think we have a very amenable relationship. They have no hesitation in saying to me that we should consider an idea that they have. It is a very satisfactory relationship.

Mr. MOTTL. The Chair would like to thank you for your comprehensive statement and our distinguished colleague, Mr. Quillen. I appreciate your very fine statement.

Mr. QUILLEN. Thank you. I think we all agree Mr. Steed has made some very valid comments, comments which I hope this committee will take into consideration.

The law should go back to where it was, and I hope you will give my bill favorable consideration.

Mr. MOTTL. Thank you very much, Mr. Quillen and Mr. Steed.

Next we will hear from our distinguished colleague, the Honorable Larry Pressler, of South Dakota.

We look forward to hearing your statement.

STATEMENT OF HON. LARRY PRESSLER, A REPRESENTATIVE IN CONGRESS, FROM THE STATE OF SOUTH DAKOTA

Mr. PRESSLER. Thank you, Mr. Chairman.

Mr. Chairman and members of the Subcommittee on Education and Training: I would like to address today the 85–15 rule as it relates to my measure, H.R. 3275, which I reintroduced last Thursday with 18 of our colleagues.

As I am sure you know from previous testimony, the 85–15 rule is one of several new strictures placed upon veterans' educational assistance by Public Law 94–502. These measures are designed to achieve the laudable goal of preventing abuses by unscrupulous institutions and verterans. I endorse that goal; however, we must not pursue it without considering the ramifications of our actions.

I would like to first of all summarize a few of these ramifications: First, the constitutionality of the 85–15 rule is suspect. The initial court case challenging its constitutionality arose in my home State of South Dakota. Judge Bogue, in the Federal district court there, has signed both a temporary restraining order and a preliminary injunction based on the merits of that case. A final adjudication of that suit should be forthcoming in a few days. Second, the 85–15 rule can deprive veterans of the use of their educational benefits.

I am aware of at least two institutions in my district which are forced to turn veterans away from certain courses of study as a result of the 85–15 rule. One of them has been especially successful in its attempts to attract veterans by providing programs which veterans want most. This school, for example, provides special tutorial programs for veterans who have been away from formal education for a significant period of time. It also offers a complete course of study through night classes which allows veterans to work during the day. The latter is a comparatively unique offering in this institution's geographical area. This school, which has tried the hardest to help veterans, will be the one to be hurt the worst by the 85–15 rule.

Finally, the 85–15 rule, despite limited use of the Veterans Administration's waiver authority, places an administrative burden on nearly all institutions of higher education.

Recognizing the existence of detrimental side effects from the 85–15 rule, I would pose for this subcommittee's consideration one crucial question: Is the 85–15 rule necessary to preserve the integrity of our system of subsidizing veterans education? I suggest that a critical evaluation of the abuses involved and available remedies will lead this subcommittee to answer that question with a definite no.

At the outset, I believe that I am offering the subcommittee, in the form of H.R. 3275, a moderate approach to the problem of insuring a quality educational program for veterans. This measure does not call for a blanket scrapping of the safeguards created by Public Law 94–502. On the contrary, I believe that the existence of safeguards other than the 85–15 rule calls for the return of the 85–15 rule to its original status.

Consider for a moment the relationship between attendance by individuals who do not receive aid and the quality of education which a program provides. Such a connection has not been concretely established by the proponents of the 85–15 rule. I would challenge the Veterans Administration to demonstrate the existence of any proven relationship between these two parameters when they again appear before this subcommittee. I submit to this subcommittee the premise that a course in buggy-whip manufacture may attract more paying students than one in electrical engineering if the former is advertised aggressively and the latter is not.

In the educational market it is very difficult for a student to select course offerings on the basis of merit due to the unavailability of specific, prepurchase market data. I am sure that many of the members of this subcommittee remember a time in their own education when they took a course which, in retrospect, was less than desirable. This lack of evaluative information renders ineffectual the free market mechanism in the educational sector.

On the other hand, other mechanisms which we have established do address the "horror story abuses" which have been used to move Congress to action in the past. Initially, DVE circular 20-76-80, Appendix O, which deals with standards of progress, clearly eliminates abuses like the one cited in the Senate report on Public Law 94–502. In that report, veterans received their subsistance allowance even though they were continually failing or dropping out of class. Second, the overpayment problem is addressed by section 513(a)(9) of Public Law 94–502, which nearly abolishes prepayment, and by section 507 which requires "that educational institutions report to the Veterans Administration without delay any interruption or termination of a veteran. . . ." Finally, the 2-year rule deals with institutional branches which hold classes in shoddy surroundings.

The typical example of this type of abuse involves a branch which holds it classes in hotel or motel rooms. I would ask members of this subcommittee to think back over the many cases which have been cited in the past to support greater restrictions on veterans' educational benefits. You will probably find that the preponderance of these abuses are remedied by the mechanisms which I have outlined and not by the 85–15 rule.

In conclusion, I offer to this subcommittee, in the form of H.R. 3275, a moderate policy course which addresses a concrete problem. The existence of other effective safeguards allows this body to derive the benefits resulting from H.R. 3275 without incurring the disadvantages of the past. I therefore respectfully ask this subcommittee to take advantage of this opportunity and act affirmatively on H.R. 3275.

Mr. MOTTL. I thank the gentleman from South Dakota for his very comprehensive statement on this subject.

Does my colleague from New York have any questions?

Mr. WALSH. I wanted to thank our colleague from South Dakota for his interest in veterans' education. His statement shows he has given the matter a great deal of thought. We are deligthed to receive all of his suggestions.

I commend the gentleman for his interest. I have no questions.

Mr. MOTTL. Thank you, Mr. Walsh.

Thank you, Mr. Pressler, for appearing before our subcommittee. Next we will hear from Mr. Hamm.

I want to welcome you this morning. Congressman White would have liked to have been present, but, because of other committee assignments, he was not able to be present this morning. You may proceed as you see fit, Mr. Hamm.

STATEMENT OF RICHARD W. HAMM, A CIVILIAN EMPLOYEE OF THE DEPARTMENT OF THE ARMY

Mr. HAMM. I want to thank this committee and especially Congressman White for the honor to appear before this esteemed committee.

The purpose of my testimony is to present my case, of the adverse condition Public Law 94-502 has imposed upon me and numerous other personnel—85-15 and 2-year rule. I am currently employed as a Department of the Army civilian at William Beaumont Army Medical Center, El Paso, Tex. I have nearly 30 years Federal service in the health-care field.

I recently completed my bachelor degree requirements with Park College, field site at Fort Bliss, Tex., and was enrolled with Webster College field site at Fort Bliss, Tex., for my master degree in health facility management. These are the only colleges within a 500-mile radius that offer this program. Health care has been my life's work. To keep abreast of new developments and advancements, I feel I must continue my education, to serve the U.S. Government in the best and highest of my ability.

I enrolled in January 1977 with Webster College for my master degree work. Early in February 1977, the Veterans Administration ruled that Department of the Army civilians are not entitled to attend these institutions until that school has been in operation at the site for 2 years. Consequently I was forced to drop my studies with Webster College.

I feel this Veterans Administration ruling discriminates against me in pursuing my education. Webster College has the approval of the Texas Education Agency to conduct academic courses in Texas. At my age of 50 I cannot afford to postpone my education in this field much longer.

Your consideration and relief of these restrictions will be greatly appreciated. I will appreciate it if you will include material attached to my statement in the record.

[The attachments follow:]

TEXAS EDUCATION AGENCY,
Austin, Tex., December 3, 1976.

APPROVAL NOTICE

Mr. LEIGH GERDINE,
President, Webster College, St. Louis, Mo.

DEAR MR. GERDINE: Webster College at Corpus Christi Naval Air Station, Kingsville Naval Air Station, Chase Naval Air Station, Fort Sam Houston, Laughlin Air Force Base, and Fort Bliss, Tex., is approved for the following academic courses: pages 16–38 of the 1976–77 catalog.

Effective date of the approval: December 1, 1976.

This approval is issued under the provisions of section 1775(a)(1), chapter 36, title 38, United Statss Code, and is based on the accreditation by the North Central Association of Colleges and Secondary Schools and on the standards of the Texas Education Agency. Continued approval is dependent upon compliance with section 1775(b), chapter 36, title 38, United States Code.

Very truly yours,

JANICE BOYD, *Director,*
Proprietary Schools and Veterans Education.

VETERANS' ADMINISTRATION,
St. Louis, Mo., March 1, 1977.

Hon. RICHARD C. WHITE,
House of Representatives,
Washington, D.C.

DEAR MR. WHITE: Public Law 94–502 provides that, effective December 1, 1976, veterans' benefits may not be paid for enrollment at any institution which has not been in operation for a period of 2 years or is not otherwise exempted from having to satisfy this requirement. In accordance with DVB circular 20–76–84, appendix C, a course offered by an institution under contract with the Department of Defense may be excepted from this requirement if the following three conditions are met: First, the course is given on, or immediately adjacent to a military base; second, the course is available only to active duty military personnel and/or their dependents and; third, the course is approved by the State Approving Agency in the State where the base is located.

Mr. Hamm quoted from a message authored by the Commander of TRADOC, Ft. Monroe, Va. The message classifies a Department of the Army civilian in the same category as active duty military personnel for the purpose of exempting an institution from the 2-year requirement. However, Public Law 94–502 refers only to active duty military personnel and/or their dependents in this given situation. If an institutional branch located on or near a military installation enrolls civilians who work on this installation the site must meet the two year rule of operation.

Since the Webster College Extension located at Ft. Bliss, Tex., began operation on October 18, 1976, the site is unable to meet the 2-year rule of operation. Hence, this branch may enroll only military personnel and/or their dependents if it wishes to continue as approved for veterans' benefits.

In enacting this recent legislation, provision was made to allow those veterans enrolled prior to December 1, 1976 to continue their programs of education until completion or interruption. However, such veterans must remain continuously enrolled with the execption of summer sessions.

Mr. Hamm did not enroll at the Webster College site at Ft. Bliss, Tex. until January 19. 1977, the date the most recent term began. Clearly, Mr. Hamm was not enrolled prior to December 1, 1976 for purposes of Public Law 94–502. As such, he cannot attend at this site because the school has chosen to exempt itself from the 2-year requirement by restricting their enrollment accordingly.

If we may be of additional assistance in this regard, please contact us.

Sincerely yours,

STEVE SAVIS, *Director.*

Mr. MOTTL. Thank you.

Mr. Walsh, do you have any questions at this time?

Mr. WALSH. Mr. Chairman, I certainly would like to congratulate the gentleman for his persistence in pursuing his educational opportunities. I would hope the committee would make that pursuit a little easier. I had to do much the same thing you are doing to achieve the level of education that I wanted. I think it is a very commendable thing that you are doing.

Webster College is located where?

Mr. HAMM. It is located in St. Louis, Mo.

Mr. WALSH. I see. I am a little confused about the testimony. It has the approval of a Texas education agency?

Mr. HAMM. Yes, sir.

Mr. WALSH. It is located in St. Louis?

Mr. HAMM. Yes, sir. They have contracts with the Department of the Army at sites of the Air Force, Navy, and Army installations to conduct courses for the active-duty members and dependents.

Originally it was interpreted to include Department of the Army civilians and veterans but the latter two were ruled out by the Veterans Administration.

Mr. WALSH. It was approved on December 1, 1976 according to the document attached to your testimony, but the Veterans Administration will not accredit until 2 years from what date?

Mr. HAMM. Two years from the date the field site was authorized to conduct academic courses. In this case it will be October 1978, that Webster will have been at Fort Bliss 2 years.

Mr. WALSH. How long has Webster College been operating these courses other than the one in St. Louis, Mo.?

Mr. HAMM. I know at Fort Sam Houston, Tex., and Randolph Air Force Base they have been there several years. There are a number of Air Force and military institutions throughout the Nation.

Mr. WALSH. I assume, then, they were approved by the Texas Education Agency prior to the date of this approval?

Mr. HAMM. Yes, sir. They must have their own letter of approval. This one I have was received at Fort Bliss for approval.

Mr. WALSH. I have no further questions, Mr. Chairman.

Thank you, Mr. Hamm.

Mr. MOTTL. Thank you, Mr. Walsh.

Mr. Hamm, the subcommittee assures you we will give every consideration to your special problem when we deliberate on the change in the law. Thank you very much for giving us this important testimony.

Without objection, I would like to submit for the record a number of newspaper reports of situations involving the administration of the G.I. bill program which bear on the problems and issues of these oversight hearings. I believe these reports speak for themselves and are self-explanatory.

I would like also to include for the record testimony submitted by other Members of Congress regarding Public Law 94-502.

[The material referred to follows:]

[From the Chicago Sun-Times, Jan. 22, 1977]

TWO INDICTED IN VA-BENEFITS FRAUD

(By Dennis D. Fisher)

The owners of two Chicago beauty culture schools were indicted on charges they defrauded the government through educational benefits received from the Veterans Administration.

The indictments returned by the federal grand jury were part of a broad investigation involving government losses of more than $7 million.

The losses involved over-enrollment of veterans at barber and beauty culture schools to take advantage of VA benefits.

Named in the indictments were Mildred Green, 300 S. Austin, Oak Park, owner of Mildred's Beauty College, 4141 W. Madison, and Leora Moses, of 9635 S. Indiana, owner of Leora's School of Beauty Culture, 9216 S. Cottage Grove.

Asst. U.S. Atty. Alexander D. Kerr Jr., who presented evidence to the grand jury in each case, said that both indictments charge mail fraud, submitting false claims to the government and engaging in a pattern of racketeering.

Kerr said the racketeering charge means the government wants to confiscate the assets of the schools and sell them to recover some of the government's losses.

Mrs. Green is accused in an 18-count indictment of receiving more than $160,000 from the VA in fraudulent payments funneled through her students during a 2½-year period beginning in June, 1972.

The 16-count indictment against Mrs. Moses charges she received more than $54,000 in fraudulent payments from the VA in a 1-year period beginning in November, 1973.

Kerr said the scheme operated along the following lines:

A veteran would apply for benefits to attend either of the schools, which would fill out the necessary forms and enroll him or her as a student.

When the benefits began to flow to the student, ranging from $200 to $400 a month, the student would subtract his tuition of $50 to $70 a month and pay it to the school, keeping the remainder of the benefit checks.

These are the second and third in a series of expected indictments. The first such school uncovered in the scheme was the Tyler Barber College, 6531 S. Cottage Grove, Kerr said. The investigation is continuing, he added.

[From the Federal Times, Jan. 31, 1977]

DECEPTIVE, FTC SAYS—VETERAN-TRAINING SCHOOLS ACCUSED

Vocational schools that cater to veterans routinely engage in deceptive practices to enroll students, according to a 550 page report released by the Federal Trade Commission. They then make large profits by collecting the veterans' GI Bill benefits.

The schools, often advertised in magazines and newspapers, promise the students jobs in such fileds as television repair, truck driving and jet mechanics. According to FTC, over 90 percent of the students drop out of correspondence courses, and over 75 percent drop out of residential courses.

Few students get jobs because of their training.

Some of the deceptive practices charged to the schools are:

False use of the words "approved" and accredited."

Use of ads in "help wanted" columns, which give the impression that employment, not training, is being offered. For example, an ad may begin, "Immediate openings for trained truck mechanics." The victim doesn't find out until he comes for an interview that he is being sold a course.

False guarantees that the school will find a job for the student after he graduates. Often no jobs exist in the field for which the training is offered.

Failure to mention that completion of the course is insufficient qualification for a job. For example, a school claiming to train lawyers neglected to mention that the student would have to pass the bar exam, which usually can be taken only after completing a real law school course.

The typical student in these schools, the report says, is "unusually vulnerable to deceptive and misleading advertising and unfair sales and enrollment techniques. Students are usually about 20 years old, have a high school education and little experience in the job market. In one instance, a mentally retarded student was enrolled in several technical courses."

An FTC official said of the schools, "Everybody has to cheat to stay in business, and that's what they do. It's not just a few rotten apples. It's everybody."

The report said the schools relied heavily on the availability of GI Bill benefits and government loans to lure students into signing for courses.

A former salesman for one of the schools testified, "I can go down in the ghetto and stand on the corner and enroll all kinds of people if it is free. He doesn't care if the course is airlines, insurance adjusting, hotel-motel management, or what, if it is going to be paid for by the government and you can get him a job . . . This is a salesman's dream."

The school sometimes misleads the student into thinking he does not have to repay student loans. High-pressure sales tactics deceive students into believing that the schools have been commissioned by legitimate business to train personnel for them.

Some of the schools encourage students to take courses for reasons other than desire for a job. For example, part of the course may be to build a color television set, which the student keeps. By enrolling in the course with no intention of becoming a television technician, the student in effect uses VA benefits to buy a television set.

The Bureau of Consumer Protection of FTC, which prepared the report, recommends tighter regulation of the schools.

[From the Wall Street Journal, Feb. 22, 1977]

RYDER SYSTEM AGREES TO REFUND TO STUDENTS UNDER ORDER BY FTC

WASHINGTON.—Ryder System Inc. agreed to refund up to $1.5 million to graduates of some of its truck-driver training courses that the government said "were virtually worthless for future employment."

In a consent order issued by the Federal Trade Commission, Ryder also agreed to back up future claims to prospective students about employment and salary opportunities. In agreeing to the order, Ryder didn't admit any violation of law.

The FTC charged that Ryder used "false and misleading" practices to sell its tractor-trailer driver and heavy-equipment-operator courses. The commission said Ryder falsely claimed that graduates of its courses wouldn't have any trouble finding jobs, and didn't tell prospective students the requirements that the Department of Transportation and various states set for tractor-trailer drivers. In addition, the commission said Ryder falsely claimed to give its graduates free placement assistance.

The commission said Ryder's advertising practices violated the FTC Act.

Headquartered in Miami, Fla., Ryder is a transportation company that also owns a truck-leasing subsidiary, Ryder Truck Rental Inc.

Ryder System said it agreed to the order to avoid prolonged and expensive litigation.

It said the $1.5 million has been fully reserved since December 1974 and that the order won't have any effect on its earnings.

The company added that its truck-driver training school has been discontinued.

Under the consent order, Ryder must refund up to 75 percent of the tuition payments to graduates who completed the resident-training parts of its tractor-trailer driver and heavy-equipment-operator courses between 1970 and 1973 and who didn't get the jobs they were trained for after "making a reasonably diligent search."

The company also was ordered to keep records for 5 years on the jobs and salaries its graduates receive to back up any claims the company makes and to give prospective students three days to cancel after they enroll in the program.

FTC Commissioner Donald Clanton opposed the consent order, saying he doubted that many of the students who deserve refunds will get them. "Given the limited class of students eligible . . . I doubt that the ($1.5 million) fund will be in serious danger of depletion," he said. He added that the order "too narrowly restricts the class of students deserving" refunds.

[From the Pensacola Journal, Pensacola, Fla., Feb. 24, 1977]

G.I. ABUSES COLLEGES' LIABILITY—VA

TALLAHASSEE (AP).—Florida schools owe the Veterans Administration up to $1.5 million for G.I. Bill payments to veterans who failed to live up to their obligations, a VA official said Wednesday.

"If the money paid to veterans is based on false, misleading or erroneous certifications by the school, the school may be held liable," said Carlos Rainwater, assistant VA regional director at St. Petersburg.

But, Community Colleges Director Lee Henderson objected to the VA's attempt to collect the money from the schools. He said the veterans should be required to pay the money because they're the ones who took it under false pretenses.

"If a veteran takes that check and cashes it and he knows he's not in school, he's liable," Henderson said. "To hold a college liable for that is just a terrible public policy."

Rainwater said the VA is attempting to hold 26 Florida colleges, universities, vocational schools and business schools liable for G.I. Bill payments improperly accepted by veterans.

In most cases, the veterans dropped out of classes or school without notifying the VA they were no longer taking as many courses as they were being paid for, Rainwater said.

Post inquiry traces funds to sergeant by Pat Reese appearing in the Fayetteville Observer and Fayetteville Times, Sunday April 3.

A Fort Bragg sergeant may have made as much as $100,000 during 1976 as a "supervisor of sales" with one of the VA approved correspondence schools now under investigation by Postal authorities and the VA.

It has also been learned that the number of soldiers who enrolled in those schools may well have numbered well above the 2,000 figure used in previous stories published about the investigation.

The name of the sergeant is being withheld since no charges have yet been made by a secret Federal Grand Jury meeting in Seattle, Wash.

Several "birddogs" (solicitors for the companies in question) have said they were hired by the sergeant who apparently was working on a special contract with the schools.

They said they were paid $10 for each soldier applicant they directed to the correspondence schools. They said the sergeant who hired them received $25 out of the applicant's down payment and another $75 when the VA paid for the bulk of the school cost.

"The $10 I received, or was promised, apparently came from the $25 the sergeant was getting", one of the soldier solicitors said, "and the rest was his profit, or at least most of it".

Another of the solicitors said he did not receive most of the money he had been promised for getting applicants for the school.

News of the investigation broke last week. Subpoenas were issued to seize the records of Eastern Career Schools, College of Police Science and Security Training Institute, all located in Yadkin Road offices.

It was learned at the time that there were at least 20, perhaps more, noncommissioned officers and one captain on Ft. Bragg who had worked as solicitors for the schools.

Advertisements for the schools had been mailed out as inserts in local newspapers, sent through the mail and distributed in day rooms on the military posts.

Most of the advertisements had stated that the schools were "accredited", indicating completion of the courses could be applied for credit on college attendance later.

A check with Raleigh authorities shows none of the schools were on the State's accredited list.

Some soldiers complained that they never received a set of tools they claim they were promised if they completed a course in auto mechanics.

Some who completed a course in Security or Police "Science" received a diploma from Fairfield, Ala., presumably signed by the Police Chief of that town.

A check with Fairfield, however, disclosed the Chief was on "a leave of absence and not expected to return".

A further check indicated the diploma had been issued in cooperation with Paine College in Augusta, Ga. A check with authorities there disclosed there had never been a working agreement with the school. "We heard someone was issuing diplomas using our name, but we know nothing about the schools" a school official said.

[From the Memphis Press-Scimitar, Memphis, Tenn., Apr. 6, 1977]

VA ORDERS HALT TO VETERANS' ADMISSIONS AT SHELBY STATE

(By Paul Vancil)

The Veterans' Administration has ordered Shelby State Community College not to accept any additional veterans during its spring quarter after a survey showed some veterans attending the college are not complying with federal regulations, Dr. Jess Parrish, Shelby State president, said today.

Dr. Parrish said the VA survey and Shelby State's own investigations showed some veterans had quit attending classes after a certain point in the quarter but were still receiving monthly benefits.

He also said the survey showed that some veterans were repeating courses or taking too many electives outside their major areas of study. Both practices are prohibited if veterans are to continue receiving benefits.

The veterans out of compliance were nonetheless certified by Shelby State to receive benefits, said Robert Bielak, regional director of the Veterans' Administration in Nashville. There was no evidence the college knew of the noncompliance when it granted certification, Bielak said.

Dr. Parrish said nonattendance by veterans was reported to the VA only at the end of each quarter unless Shelby State became aware of a dropout during a quarter. He said Shelby State had no automatic method to know if a veteran had stopped attending classes and the school was "dependent on the veteran knowing when he was illegally enrolled and notifying the school."

Bielak said attendance reports are not required from schools but "they are supposed to have administrative controls to notify us if a veteran interrupts his training."

Dr. Parrish said Shelby State was not watching for repetition of classes until the investigations made it clear that veterans were repeating. He said that prior to the survey counselors were aware that students might be taking too many outside electives but were not aware which of the students were veterans. "They know now, I guarantee you," Dr. Parrish said.

He said counselors can only suggest proper courses, not dictate which classes can or cannot be taken.

Bielak said requirements for reports on repetition of courses and excessive electives have "always been written into our regulations. Proper certification should have caught this."

Dr. Parrish said the regulations have allowed flexibility in determining whether courses fit a student's major, sometimes making it difficult to identify which classs are outside a major.

The spring quarter began March 30.

Dr. Parrish said the "hold" on further admissions affected the applications of 75 to 80 veterans, although he said he thought not all would have registered if admitted.

Bielak said another compliance survey would be done this summer to determine whether Shelby State can admit new veterans in the fall.

Dr. Parrish said the VA conducted a routine compliance survey early last year and finished a six-month audit in February.

Shelby State also has voluntarily undertaken a review of the records of every veteran attending the school. Dr. Parrish said the review grew out of the VA investigations and the school's own studies.

About 1,000 of the more than 4,900 full-time and part-time students at Shelby State are veterans.

Dr. Parrish said some veterans' monthly checks might be delayed because of the review but no one would lose any benefits.

Dr. Parrish said he did not know when the total review would be finished. He said three different offices at Shelby State would have to examine all the records.

[From the Washington Post, Apr. 10, 1977]

WTI Tightens Its Academic Requirements

(By Lawrence Feinberg)

Washington Technical Institute, the city's 2-year technical college, has placed about 1,800 of its students—more than 40 percent of its total enrollment—on academic probation.

The action, taken as part of a tightening of academic standards at the public, open admissions school, has forced WTI to try to round up hundreds of new students to bring its enrollment closer to what is needed to justify the college's budget.

After its scheduled registration period ended 2 weeks ago, WTI had only about 2,200 full-time-equivalent students, compared to the 2,770 specified in its $12.2 million budget. Students on academic probation are allowed to enroll only as parttimers.

As a result, Dean Raleigh Allen said, some classes were cancelled and some faculty members were teaching less than their normal loads.

To boost enrollment, Allen said counselors at the college telephoned last week about 1,000 persons who had applied too late for the fall and winter term, asking them to join classes in the spring quarter, which already started March 30.

About 200 new students registered on Thursday, admissions officials said, and more can sign up on Monday.

WTI, which teaches vocational and technical courses ranging from aviation mechanics to embalming to secretarial science, divides its academic year into three 10-week quarters plus a summer session.

However, it is scheduled to switch to a two-semester calendar this fall to bring its operations in line with Federal City College and D.C. Teachers College, with which WTI has been merged to form the University of the District of Columbia. At present, each is still being separately administered.

Although WTI opened in 1968, this is the first year it has imposed a strict academic probation system based on letter grades (ranging from A to F). Previously, it had used a pass-fail marking system, with an optional grade of "high pass."

"We made the change in an effort to improve ourselves qualitatively," Allen said.

The change coincided with charges by the Veterans' Administration that 40 percent of the veterans studying at WTI had collected GI Bill benefits for courses they did not complete.

VA officials said that since the college had no attendance requirements and no clearly enforced rules on how many courses had to be passed to remain in good standing many veterans took the same courses repeatedly and continued to receive GI benefits.

Faculty members said many non-VA benefit students also took courses, dropped them and took them again, in order to continue receiving Basic Education Opportunity grants from the Federal Government. These grants, for up to $800 per student per year at WTI are based entirely on economic need, not on scholarship.

This year, incomplete grades count as failures at WTI and students must maintain at least a C-minus average every term in order to avoid probation. Those on probation can take only three courses instead of the normal full load of five. Under the new rules, if low grades persist for more than one term, a student is suspended.

"It used to be that half the students in a class would disappear by mid-term, Eli Rosenfield, an assistant mathematics professor, said yesterday. "Now attendance is much better. The students are much better motivated."

In addition to the impact of the new academic probation rules, enrollment at WTI has been cut this year by a decline in the number of veterans attending, which is part of a nationwide pattern. Last year, WTI had 1,437 veterans, accounting for almost half of its male enrollment. Last fall there were 922 veterans, and the number has dropped more since.

The decision to reopen registration and seek more students was announced to the faculty earlier this week by Allen and WTI president Cleveland Dennard.

Marine science professor Albert J. Jones said it drew sharp opposition from faculty members who feel it will be difficult to accept new students into courses in which three or four classes already have been held. He said it also will force some professors to teach an extra basic course for new students in addition to advanced sections, which the school continues to offer even though enrollment is down.

Jones said it will also be difficult for the new students to go from their one-quarter courses to the semester system that starts in the fall.

"I think it's ridiculous," Jones said, "but we were told the college has to do it in order to justify its budget. We just have to accept what's been decided."

Dennard could not be reached for comment.

[From the Chicago Sun-Times, Apr. 22, 1977]

SCHOOL OWNER GUILTY OF BILKING VA

An Oak Park beauty school owner was convicted by a U.S. District Court jury Thursday of bilking the Veterans' Administration of $200,000.

Mildred Perkins, 43, of 300 S. Austin in the west suburb, was convicted of seven counts of mail fraud, seven counts of filing false statements and one count of racketeer influenced crime.

Mrs. Perkins, who married after her indictment January 21 under the name of Mildred Green, owns Mildred's Beauty College, 4141 West Madison. She was accused of listing up to 130 military veterans as students, during the period from mid 1972 to the end of 1974, and collecting $70 for each student from the VA despite the allegation that the students did not attend classes.

VA rules stipulate students must attend classes 6 hours per day, and that only 50 VA financed students can attend any such school.

Mrs. Perkins, the Government charged, collected only one-fifth of the alleged fraudulent payment. Another $800,000 went to those listed as students. Three other such schools are currently under federal indictment on similar charges.

Mrs. Perkins testified in the trial before U.S. District Court Judge Prentice H. Marshall. She denied the accusation of altering attendance cards, and her former secretary, Marilyn Parker, testified that she did not alter the cards.

However, several students from Mrs. Perkins' school testified that only 8 to 10 persons attended classes during the period in question.

The case was prosecuted by Assistant U.S. Attorneys William R. Coulsen and Vincent J. Connelly.

[From the Army Times, Apr. 18, 1977]

ADMINISTRATIVE SUSPENSIONS: THREE SCHOOLS CUT FROM GI BILL PROGRAM

(By Larry Carney)

WASHINGTON.—Three correspondence schools with enrollment totaling more than 3000 soldiers at Forts Bragg, N.C., and Lewis, Wash., have been "administratively" suspended from the GI Bill program, according to the Veterans' Administration.

The action also probably affects military students at other posts, VA said.

The suspension means that veterans and servicemen pursuing correspondence studies with the three institutions will not be able to receive GI Bill allowances for their participation.

Donald R. Smith, a VA information officer, said a federal grand jury has been convened in Seattle, Wash., to investigate charges against one or more of the suspended schools.

James Moore, U.S. attorney in Seattle, declined comment on the proceedings and would not indentify the schools under investigation. "I can only confirm that there has been an investigation."

"The VA suspensions," Smith said, "will remain in effect pending the outcome of any investigation into alleged fraud."

He identified the suspended schools as the National Training College of Los Angeles, Calif., the Security Training Institute of San Diego, Calif., and the Eastern Career School of Utah.

The two California schools were suspended on March 21 while the Utah school was suspended several months ago.

Army sources say the investigation is being centered at Bragg and Lewis. They say 2000 Bragg soldiers and about 1000 Lewis soldiers were enrolled in courses offered by the three schools at time of suspension.

The source said that as part of the investigation Army investigators have interviewed a large number of Bragg soldiers who were students of the correspondence schools.

One unconfirmed report said federal agencies are looking into charges that some Bragg soldiers worked as solicitors for the suspended schools.

Smith said "instances of soldiers and veterans losing unexpectedly large portions of their GI Bill benefits after enrolling in the schools and later dropping out have been reported to the VA."

In a statement confirming the suspension of the National Training College and Security Training Institute, VA said it "has conducted an extensive and intensive investigation into certain aspects of operations at the two schools.

"This investigation indicates that sufficient violations of law have taken place to warrant the suspension of these institutions pending a full and complete hearing into these matters.

"The schools will be given every opportunity to present any evidence they wish touching on the subject. Since hearings will be conducted, it is felt that further comment by the Veterans Administration at this time would not be appropriate," it said.

[From the Oregonian, Apr. 19, 1977]

U.S. Sues for Return of Tuition Fraud Funds

The U.S. government filed a civil suit Monday seeking a judgment of $86,442 against four persons who allegedly conspired to defraud the Veterans Administration.

The action, filed in U.S. District Court in Portland under the federal false claims act, names West Coast Training, Inc., as defendant. The Milwaukee firm, now under new management, was known as West Coast Training Services during the period of the alleged fraud scheme from November 1970 to October 1971.

Also named as defendants were Hazel Shiley, Lake Oswego, former owner and president of the firm; Bennie White, 3555 SE Francis St., who was a director and vice president; and Harry Loomis, Seattle, and Thomas Tarbet, Milwaukee, listed as former agents and employees of the company.

The complaint by the U.S. attorney's office alleges that the defendants enrolled veterans in correspondence courses teaching the operation of heavy equipment, then provided them with correct answers to test questions. The government contends the veterans did not actually complete the course nor receive instruction, but that certification was made saying they had completed the course so that they would be reimbursed by the VA for the cost of instruction.

The government also alleges that several veterans were listed as enrolled in the course when they actually were not.

The complaint seeks $2,000 penalties for each of 22 alleged false claims, plus double damages under the law for $21,221 which the firm allegedly received from the VA as a result of the claims.

In an earlier criminal case arising from the same alleged situation, Mrs. Shiley pleaded guilty last June to a misdemeanor charge of unlawfully obtaining money from the VA. She was placed on five years probation and fined $1,000. White was placed on three years probation and Loomis on two years probation on similar charges. A charge against Tarbet was dismissed.

Mrs. Shiley could not be reached Monday for comment on the civil complaint.

[From the Daily News, New York, N.Y., Apr. 26, 1977]

Cops, College Clean Up At Public's Expenses

(By William Heffernan)

Taxpayers have shelled out million of dollars in the last three years to support a part-time college program for city police officers that has become little more than a financial windfall for the college and cops involved, a News investigation has found.

The Program for Police Officers, is run by the New York Institute of Technology, Old Westbury, L.I., a school that came under fire recently for failing to meet requirements for federal and state aid received by the school and its students.

The institute developed close ties with city police officials three years ago by offering financial rewards for cops who became students or teachers. Many police officials now concede, however, that educational rewards for student-cops have been questionable.

TEACHING JOBS

Financial rewards have included:

Once-a-week teaching jobs for senior officers and retired ranking officers at $100 a day for teaching two 2½-hour classes. Some teachers taught four classes a week at double the salary, and many working officers often rearranged their police duties or took time off to cash in on the extra income.

Full scholarships or salaries up to $100 a week for cops in the program to provide "peer counseling" to other student cops. The counseling was often provided during the policemen-counselors' regular tours of duty.

Full veteran's benefits of $292 a month for 4,000 student-cops, although they were entitled only to half benefits while involved in a part-time program. The institute also helped its students obtain about $250,000 in state tuition aid funds by presenting its program as a full-time college course, a position that institute officials still insist is true, although state and federal officials have found otherwise.

In return for the program, the Police Department has provide rent-free classrooms in stationhouses throughout the city, complete with free janitorial services, heating and electricity.

Other city agencies, including the Department of Correction and the city Housing Authority police—whose men also are eligible for the program—provide similar space and services free of charge. Spokesmen for those agencies say that the space and services were provided as a benefit to cops interested in the program.

The institute charges student-cops $19.50 a credit hour, while providing 2½ hours a week of instruction for each three-credit course in basic academic subjects, police science and criminal justice. Each course lasted only eight weeks—a total of 20 classroom hours—and full college credit is given.

For each graduate it produces in the program, the institute receives a flat state grant of $940. This year, the institute expects to graduate 1,200 men from the program.

William Smith, the institute's vice president in charge of the program, insists the program is a full-time "fully accredited and beneficial program of study for police officers."

Smith says the institute's goal is to "reward students for what they know, not how they learned it"—an effort, he said, that has been very successful.

Smith said the institute has 52 police officers working in stationhouses as peer counselors and employs five former senior officers on its executive staff on a full-time basis, as well as 12 others who work as full-time faculty members in criminal justice courses.

It also employs seven ranking police officers and three department employees on a $100-a-day teaching basis, Smith said. Those officers include two stationhouse commanders (captains), two lieutenants and five sergeants. A department chaplain and two members of the legal staff are also used as teachers.

Smith blamed criticism on concerns of other institutions that the program would cut into their enrollment, and pressure on state officials by politicians "to reduce funds to universities wherever possible."

Some city police officials say privately that they do not discourage cops from enrolling in the program "because we simply believe that it's a good thing just to get a cop to read a book."

Inspector Gertrude Schimmel, a strong advocate of police education, terms the program "a farce."

"If they had taken the money away from the men involved," she said, "I doubt it would have succeeded. There is little question in my mind that most of the men enrolled in the program are in it for the money they get out of it."

The program has met with a mixed reaction from cops, with some touting its educational benefits and others admitting that they enrolled for financial reasons.

"Most of the guys in the program refer to it as Cash College," one student-cop said.

THE UNIVERSITY OF OKLAHOMA,
Norman, Okla., April 27, 1977.

Hon. TOM STEED,
Congress of the United States,
Washington, D.C.

DEAR CONGRESSMAN STEED: We need your help on hearings being held on Public Law 94-502 regarding certification of veterans.

Currently one clerical position with additional part-time help in peak periods handles the paper processing in certifying veteran students. With the new regulations, it has been determined that the academic records of all veteran students receiving benefits must be completely reviewed prior to certification beginning with the Summer Session of 1977.

The total credit hour applicable to the degree program pursued by the veteran student must be ascertained; the total credit hours needed to graduate, including the number to be repeated or made up, must be determined for each veteran student; and the number of terms remaining based on the approved length of the course and the student's rate of pursuit must be calculated. This review procedure which includes the pulling and copying of approximately 1800 permanent academic records will require the time equivalent of at least one additional full-time academic advisor to review records and the additional clerical support needed to obtain the records.

In addition, this review procedure will be a continual process where each semester prior to certification a full review of the veteran student's academic record must occur before notification can be sent to the Veterans Administration. Also, in several conditions veteran students will have to be called in for interviews to make determinations about the use of various courses as electives in degree programs.

The new standards of progress will require more than double the personnel currently used in the certification process plus additional paper copying costs and computer development and production time for reports. This additional reporting requirement is exceedingly burdensome and costly. In addition, at a time when there is great national criticism of the increasing paperwork load, more paper work is being required by a federal agency.

An alternative is available although additional costs would still be present. If Veterans Administration representatives desire to do this extensive review of records each semester to determine progress, academic records can be supplied to these representatives during each semester. V.A. personnel would then be involved rather than University personnel, reducing the new costs to the University.

The University of Oklahoma will encounter extreme difficulty in complying with the new guidelines. Any assistance you may give use in modifying this legislation will be appreciated.

Respectfully,

PAUL F. SHARP,
President.

INSTRUCTIONAL SERVICES

(Planning and Evaluation Office)

COST ANALYSIS FOR CERTIFYING VETERANS ATTENDING THE SAN DIEGO COMMUNITY COLLEGES

The Veterans Administration is currently reimbursing the District for the cost for certifying veterans for attending California Community Colleges at a rate of $3 for certification and $4 for certification for advance payment. This research project has been conducted to establish the true cost for certifying veterans in the District.

Veterans attend all of the colleges in the District and the adult high schools. This research, however, has been limited to college campuses only, as this is where most veterans attend and the figures can also be compared to other community college campuses in the State.

A total of 33 employees on the City, Mesa, Miramar and Evening College campuses were surveyed. These employees included college counselors and the clerical-secretarial staff. Twenty of these employees were regular, full-time

monthly employees. Thirteen were part-time temporary employees. The survey asked for the monthly salary of the employee and the hours that the employee spend per week on the certification of veterans. The total cost of salaries, benefits and overhead was derived by using a factor established for the District by the Health, Education and Welfare Department, which is 34.9 percent of the salary of the employee. The salary plus this overhead cost gives the total compensation and overhead.

City College employs nine people who are involved in the certification of veterans for a total cost of $70,661.06 for the calendar year 1975.

The Evening College program at City campus employs five people for a total cost of $62,553.67 for the calendar year 1975.

The Evening College program at Mesa campus employs five people for a total cost of $62,495.18 for the calendar year 1975.

The Miramar campus employs five people for a total cost of $40,987.15 for the calendar year 1975.

Mesa College employs nine people for a total cost of $61,884.56 for the calendar year 1975.

These 33 employees cost the District $298,581.62 for the 1975 calendar year for veterans certification. These employees certified 9,600 veterans. The cost per veteran was $31.10.

SAN DIEGO COUNTY VETERANS' TASK FORCE

The Veterans Administration currently reimburses the San Diego County public colleges and universities to allay the cost of certification paper work at a rate of $3.00 for veteran certification and $4.00 for advance payment certification. This research project establishes the true cost for certifying San Diego County Veterans.

We surveyed the ten (10) San Diego county public institutions (viz. Grossmont College; Mira Costa College; Palomar College; San Diego City College; San Diego Evening College; San Diego Mesa College; San Diego Miramar College; San Diego State University; Southwestern College; University of California, San Diego). Employees directly involved with the certification process at these institutions included both counselors and the secretarial-clerical staff.

The Federal Government provided factors to be used in the computation of indirect costs (i.e. benefits and overhead) for employees involved in veteran certification. The median factor used in San Diego County was 39% of the salary of the employee. The indirect costs coupled with the direct costs (i.e. salary) gives the total compensation and overhead for employees.

During the 1975 calendar year, seventy-one (71) employees worked a total of 2605 hours per week of which 1664.5 hours were spent on veteran certification. Veteran certification therefore accounted for 64% of the employees time. Yearly compensation and overhead costs was $686,710.62. During 1975 the ten (10) San Diego County public colleges and universities certified 27,258 veterans and their dependents. The costs for certification of veterans averaged $25.19 per capita. The lowest rate at which a veteran was certified was $15.50. $45.58 was the highest rate for certification in the county.

The chart (see addendum) gives a breakdown by college and university. All figures are from the 1975 calendar year.

School	Number of employees involved in certification process	Hours worked per week	Hours worked per week on veteran certification	Percent of time spent on certification	Yearly compensation over head costs	Veterans and dependents certified	Per capita cost to certify
Grossmont College	7	270	242.0	90	$104,673.00	4,797	$21.82
Mira Costa College	11	300	170.5	57	78,254.00	1,717	45.58
Palomar College	10	400	193.0	48	84,629.00	3,585	23.60
San Diego City College	9	360	207.0	58	70,661.06	[1] 9,600	31.10
San Diego Evening College	10	390	277.0	71	125,048.85	(2)	31.10
San Diego Mesa College	9	360	210.0	58	61,884.56	(2)	31.10
San Diego Miramar College	5	195	102.0	52	40,987.15	(2)	31.10
San Diego State University	5	120	120.0	100	60,888.00	3,723	16.35
Southwestern College	3	130	115.0	88	52,759.00	3,402	15.50
University of California S.D.	2	80	28.0	35	6,926.00	434	15.96
Total	71	2,605	1,664.5	64	686,710.62	27,258	25.19

[1] Includes entire San Diego Community College District figures (i.e., San Diego City College, San Diego Evening College, San Diego Mesa College, San Diego Miramar College).

[2] See San Diego City College.

Statement of Congressman Lloyd Meeds, May 4, 1977

Mr. Chairman and members of the subcommittee, I am extremely pleased that you have decided to hold hearings on this difficult problem. I am heartened by the news that the Senate plans similar action in the near future. I am concerned because it appears to me that in attempting to stop abuses of federal programs we have created an abuse of our own.

At the outset, let it be clear that I do not deny that there have been abuses in this program. Educational institutions have exploited the system for their own personal gain as well as failed in compliance unwittingly. Individual veterans have cheated the system in the same ways. Undoubtedly, those abuses required a response; and P.L. 94–502 has gone a long way toward correcting the problem. Indeed, I believe that it has gone too far.

An attempt to eliminate the misuse of federal dollars has produced a misuse of its own. An overwhelming flood of regulations has issued from the Veterans Administration until the institutions strangle in the unabated flow of paperwork needed for their detailed accounting requirements. This detail causes further wastage of the veterans' dollars by making it impossible for education institutions to provide needy veterans with creative, flexible, and intelligent programs to meet their individual needs. Dollars that have been spent counseling veterans are now spent on completing forms necessary to meet federal requirements. The burden of responsibility for this program no longer rests in the hands of the individual veterans or the indiivdual instutions, or the two of them working together. The responsibility rests in the hands of the Veterans Administration and the Congress, both located here in Washington, D.C.

I am aware that the Veterans Authority under the new Administration has begun discussion with protesting parties and is considering the possibility of providing greater flexibility in the regulations and a greater amount of trust in those institutions that have continually attemped to provide credible education programs for veterans. Nevertheless, I expect that in the long run, legislation will be required from this subcommittee.

Some things need to be done to solve the immediate problem. It seems obvious to me that the law and regulations need to be changed in order to provide a maximum amount of flexibility, particularly for the disadvantaged veteran who cannot succeed in a regularized, highly structured educational environment. Second, the excessive amount of paperwork now required compels more than $5 payment per student for processing. Finally, for education in a responsible adult environment most conducive to learning for all veterans, I propose we consider a restructuring of the program—away from the patronizing bureaucratic encouragement of dependency and protection toward reestablishment of the veteran's individual responsibility for his own educational benefits and his own future.

What has become of the concept of individual responsibility? When did we decide that a burgeoning bureaucracy was necessary to protect the veteran from himself and a chosen educational institution? When did we determine that a massive outpouring of regulations from Washington, D.C. could better ensure appropriate education? Why don't we put the responsibility for a veteran's education back where it belongs—back in his own hands?

I believe we should consider returning to the veterans benefits procedures that I, myself, experienced following World War II. We were responsible for our own decisions and for our own honesty. No one else was responsible. We were liable for our own abuses. If we cheated the government, we were responsible. There may well have been abuses of that system, but the Republic did not perish. Swift prosecution of abuse, where responsibility is firmly and individually placed, can be accomplished and understood.

I have attached to these brief remarks two memoranda outlining in detail both the causes of the problem and some suggestions for resolutions to these problems. These memoranda have been prepared by the State Board for Community College Education in my home State of Washington.

I ask unanimous consent to incorporate them in my statement.

College Liability for Overpayments

Statement of the Problem. Title 38, U.S.C. Section 1785, grants the V.A. authority to determine liability of educational institutions for either "false certification" or "the willful or negligent failure" of an institution to report excessive absences from or discontinuance or interruption of a course by student veterans receiving V.A. educational benefits. Such reports are to be made by the colleges in a "timely manner." The V.A. has defined timely as 30 days from the date of a veteran's educational status changes (not 30 days from detection but 30 days from occurrence.) Because colleges do not take daily attendance, they have no way to determine when a veteran actually discontinued attendance in a particular class unless the veteran reports such discontinuance. The college is at an immediate disadvantage since only the veteran knows whether an absence is the beginning of his program discontinuance. Colleges contend that it is their responsibility to provide quality education and certify when a veteran enrolls or completes a course (class). It should be the veteran's responsibility to inform the V.A. of any changes in intent. It is impossible under these conditions for colleges to report to the V.A. within 30 days of veterans' change in intent or habits (only the veteran can and should do that). The college can, however, report to the V.A. within 30 days of any official withdrawal or change in program by a veteran.

The V.A. consistently removes the burden of responsibility from the veteran (regardless of the veteran's intent) and moves toward assessing the college for any overpayment the veteran has received. In most cases, the only thing the college is "guilty" of is being unable to meet an unreasonable and unjustifiable demand placed upon it by the V.A. The college is then in continual likelihood of a liability threat over which it has almost no control.

Solution:

1. Eliminate pre-payment to veterans. This practice by the V.A. is being discontinued as of June 1, 1977.

2. Place the burden of responsibility more fairly on the student veteran, the V.A. and the college.

   A. It should be the veteran's responsibility to notify the V.A. of any discontinuance of attendance which occurs during the quarter.

   B. It should be the college's responsibility to notify the V.A. within 30 days of the time a student veteran officially withdraws or makes program changes.

   C. It should be the V.A.'s responsibility to make authorized payments to veterans and to contact the veteran regarding regulations and procedures it believes are worthwhile.

The college should not be asked to continue to carry responsibilities and liabilities which belong to the veteran or to monitor V.A. procedures for the V.A. (many which the V.A. has already demonstrated its own inability to monitor).

PUBLIC LAW 94-502 (DVB CIRCULAR 20-76-84)

P.L. 94-502 contains the new G.I. Bill as well as anti-abuse provisions for veterans receiving benefits under both the current and new G.I. Bill. Several of the so called anti-abuse measures are either impossible to comply with, inordinately expensive to administer, unnecessary or are inappropriate infringements upon educational responsibilities more properly and effectively left to the colleges. It is those concerns which are listed below. The page numbers refer to DVB Circular 20-76-84.

Problem 1. Page 3. The reporting fee is increased by $2 to a new total of $5 for institutional reporting. The current cost to Washington State Community Colleges averages approximately $52 to certify student veterans and to maintain V.A. paperwork and implement V.A. regulations.

Solution. Drastically reduce unnecessary V.A. regulations. Even if Congress were to increase the reporting fee to $60, the paperwork and regulations would still be detrimental to the student veterans, the colleges and American taxpayers.

Problem 2. Page 4, part h. requires that the records and accounts of educational institutions pertaining to all students be made available to duly authorized representatives of the government to ascertain compliance with Chs. 30, 32, 34, and 35. This provision is not only in direct contradiction with the Federal Buckley Amendment which protects the privacy of student records but is a moral infringement upon the right of privacy of American citizens. A student who is not receiving V.A. benefits has the right to decide which of his/her private accomplishments (or lack of) and personal information should be revealed to "big brother" (this time in the form of the V.A.).

Solution. Eliminate any reference to access to the files of non-veteran students. Auditing of institutional policies and the records of student veterans receiving benefits is sufficient.

Problem 3. Page 5, part j. reinforces the provision that only programs which have a 50 percent placement rate should be eligible for V.A. certification. This provision limits the right of veterans to pursue their education/training in an area of personal interest regardless of the job placement rate. It would also result in decreased training opportunities whenever a particular industry or the general economy is in an economic slump and a corresponding period of high unemployment. It is also extremely difficult to collect college placement data on graduates who are under no obligation to report where they have found unemployment or who feel no obligation to furnish current home addresses upon leaving college.

Solution. Require colleges to state the placement rate and the date the data was collected for each V.A. certified course. If no accurate data exist, that should also be stated. The veteran may then make informed choices. Programs should not be de-certified simply on the basis of placement rate.

Problem 4. Page 6, part (2). V.A. regulations concerning veteran's grades are a direct interference with college grading practices and an excellent example of "overkill" and excessive demand for paperwork. The V.A. through its state level designated state approving agencies already requires colleges to develop and follow standards of normal progress for student veterans. Those standards can be written in such a way that abuse of benefits is controlled, and the veteran receives maximum assistance by the college in his/her educational efforts. The current V.A. regulations cause the college to discourage many veterans from pursuing an education. Usually it is those very veterans who need it most.

Reasonable standards of normal progress should be and are sufficient. The V.A. has pressed an even further to sub-divide the educational process into attendance keeping, non-punitive grades and punitive grades. The result of this intense negative viewpoint by the V.A. is to discourage quality education out of fear of losing a dollar somewhere or somehow. For example:

A. (Appendix M) A withdrawal grade (W) is considered non-punitive and the veteran is considered "guilty" of being overpaid and is re-certified back to the beginning of the term. It is now up to the veteran to prove innocence and show "mitigating circumstances" which caused the "W" grade. This process is negative, is covered already by the standards of normal progress and creates a fear of failure which discourages educational pursuit.

B. The V.A. has developed an appendix "O" to deal with punitive grades (failing grades). Again this is already covered in the standards of progress and institutional educational policy. The whole concept and terminology of "punitive" and "non-punitive" grading is educationally destructive and offers evidence that the V.A. is into a line of work (educational policy) for which it is highly unqualified. Appendix "O" is complete with a series of formulas which must be continually applied to the student veteran's grades to determine if he/she is progressing on-time. On-time has the effect of lock-stepping people, emphasizing their failures and discouraging attempts to even try. When a person is attempting growth, he will naturally experience set backs which in turn should be viewed as part of the learning/growth process. Let's control abuse but not discourage learning!

C. Since the V.A. standards now require the college to know exactly the date on which a veteran discontinued attendance, they are inclined to discourage veteran participation in non-traditional, contracted and other forms of creative forms of creative education. While the V.A. requires increased rigidity, the veteran continues to lose viable educational options. The V.A. is not an educational agency and should not be attempting to act in that capacity.

D. Those veterans who are most inclined toward education and who have experienced success are, by and large, well into or have completed their education. The veterans remaining to be trained and receive post-secondary education tend to be educationally disadvantaged, the minorities, and the unskilled. Those people cannot tolerate or deal with bureaucratic red tape and senseless rules.

Those are the people community colleges work with continually and successfully. The need the most help, the most room to experiment (and sometimes fail), the most procedural latitude and the least V.A. control. These tend not to be the people who know how to follow institutional red tape, they don't even know what "mitigating circumstances" means and are frequently experiencing so much personal/social confusion and they won't even try to find out. The "rip-off" artist will still survive the flourish even under the V.A.'s landslide of rules and regulations while the cost and waste in human resources and growth is forced to even, greater heights for the educationally disadvantaged.

Why is so much unnecessary red tape being wrapped around veterans? The veterans have earned their benefits and should be encouraged to use but not abuse them. On the other hand, immense sums of money are being given to non-veterans each year in the form of federal financial aid (e.g. B.E.O.G.) with few strings attached except that the recipients pursue the education of their choice. That too is an excellent program. The point is, however, that the benefits are not earned in the sense of G.I. benefits and fortunately aren't subject to V.A. regulatory imagination.

Problem 5. Page 6, part b. (also Appendix D) does not allow the veteran to give power of attorney to the college so that the college may cash the veteran's check. While that is generally a supportable regulation, it creates problems relative to tutoring. The college provides tutors for the veteran, but the veteran generally cannot afford to pay the tutor until the tutoring payment arrives. The tutoring payment may only be cashed by the veteran who unfortunately may not keep the obligation to pay the tutor. When this happens the tutor loses out, and the college's reputation and quality of tutors declines.

Solution. The veteran should contract with the college for tutoring. The college could then pay the tutor at the completion of tutoring and bill the V.A. for the exact tutoring cost plus 5 percent administrative cost.

Problem 6. Page 6 part d (also Appendix L) defines the number of hours and kinds of instruction which qualify for certification as non-college degree (NCD) courses. Again, the V.A. is defining the education process as if all student learning needs were the same. Their definitions exclude many students who need math lab and reading lab learning along with more structured classes. It also has a detrimental effect on high school completion students who again may not have learned the skills the first time through (in high school) and now find themselves forced back into the same mold by the V.A. It is the colleges' role and expertise to determine how to teach, what to give credit for, how much credit to give, special learning deficiencies and needs and then to provide those services. Again the V.A. has exceeded its role!

Solution. Remove any regulations having to do with credit awarded and clock hours necessary for credit from any college which is accredited by the regional accrediting organization.

Problem 7. Page 6, part c (also Appendix H) is the so called 85/15 rule. It states "that no more than 85 percent of the students in a course may have all or part of their tuition or other charges paid to or for them by the school, V.A., and/or by Federal grants . . ." The intent of this regulation is to insure that an institution or program is not established for the primary purpose of relieving veterans of their benefits.

The rule might make sense when applied to proprietary institutions which may come and go rapidly. On the other hand, it interferes with service to veterans when applied to colleges and has no advantage for the taxpayers. In the first place, almost no college programs exceed the 85 percent; and in the second place, most of those which exceed the 85 percent level do so because they are in economically disadvantaged areas where many students are receiving state or federal financial aid. The financial need of one group of people should not limit the educational opportunity of another group (veterans). A few college programs, particularly vocational/technical, may exceed the ratio simply because the job market is exceptionally good and veterans' interest in them is high (e.g. welding, law enforcement, medical technology).

Solution. The V.A. first issued complex regulations and waivers then decided to hold up enforcement of the 85/15 rule. The rule should be permanently removed from application to colleges.

STATEMENT OF CONGRESSMAN JAMES T. BROYHILL

Mr. Chairman, I have been following, with interest, the hearings before your Subcommittee on the 85–15 percent ratio requirement placed upon our institutions. As you know several in the State of North Carolina and in the 10th Congressional District, which I represent, have advised me that they have been adversely affected by Public Law 94–502.

Recently, I noted in the testimony of Mr. Lawson, a representative for the minority Veterans' Programs of the Association of Community and Junior Colleges, that he stated that insofar as he was aware, no individual veterans other than the one from South Dakota who is currently engaged in legal suit with the V.A., had been affected by the 85–15 percent requirements of the law.

Enclosed for you and the Members of this distinguished Subcommittee to read is the letter that has been received by my constituent, Richard H. Herman of Conover, North Carolina. This letter from the Veterans Administration Regional Office in Winston-Salem states that the veteran cannot receive educational benefits under the G.I. bill for the course in which he is enrolled since this course, taught at Catawba Valley Technical Institute (CV&TI) in Hickory, North Carolina, does not meet the 85–15 percent ratio requirements of the law!

By way of background, I want to advise you that my constituent is a military retiree who is enrolled in an Industrial Management course. This course was designed to help retired military personnel readjust to careers in civilian life. Mr. Herman applied for educational benefits from the V.A. in February. His training began in March. On April 20, he was told that the course he had been attending for over six weeks did not meet the 85–15 percent requirements of the law. Since the veteran had no idea that there was any problems with his training, this, indeed, will cause him a financial hardship. Nevertheless, he plans to continue in the course which he believes will be advantageous to him in his new career field.

In light of previous testimony, I felt that the Subcommittee should have this information for the record. Although I realize that in passing Public Law 94–502, the intent of Congress was to prevent abuses within the V.A. system and help veterans to pursue programs beneficial to them, individual veterans are beginning to be denied benefits for courses in which they have been enrolled. I plan to continue to follow these hearings very carefully and, I have appreciated this opportunity to present this information to the subcommittee.

STATEMENT OF HON. BALTASAR CORRADA, RESIDENT COMMISSIONER FROM PUERTO RICO

Mr. Chairman, Members of the Subcommittee, I very much appreciate this opportunity to provide you with my comments on the so-called 85–15 rule and the 10 year delimiting date for veterans educational benefits.

As the Resident Commissioner from Puerto Rico, I represent 3.2 million United States citizens of which approximately 180,000 are veterans. I therefore consider the area of veterans affairs to be an integral part of my Congressional responsibilities.

I share the concern of veterans and educational institutions in Puerto Rico with the breadth and scope of the 85–15 rule. When I speak of the 85–15 rule, I refer to a rule whose purpose is to prevent misuse and/or abuse of federal funds, but whose effect fans out way beyond its purpose. A purpose and effect analysis is crucial to any legislation. An intent to benefit a particular group may be vitiated by an effect which cripples that group's ability to avail itself to the benefit. I believe this is the case with the 85–15 rule.

There can be no doubt that the ratio requirement restricts a veteran's access to an adequate education. Of course, the use of any ratio requirement would restrict access but it is the breadth of the 85–15 rule that I find objectionable. Computation of the percentages in the ratio requirement include not only V.A. educational fund recipients but those students receiving financial assistance from the school or some sort of federal grant. Although all the aforementioned groups are included in the computation of the percentages, the only students effectively excluded by application of the 85–15 rule are veterans. It seems inequitable to broaden the group of people to be included in the percentages (i.e. Beog, Seog & Federal Grants) yet apply the limitation thereby created only to those who rely on the Veterans Administration to finance their education.

The existence of a low family income (below $4,000) and a very high unemployment rate (19–20 percent) in Puerto Rico further compounds the effect of the limitation. In an area like Puerto Rico where a substantial percentage of the student population receives some sort of federal grant, mainly BEOG, to help finance their university studies the 85 percent limitation hits veterans very hard.

It is for the above reasons that I introduced HR 5939 on April 4, 1977. The bill proposes to amend 38 USC 1673(d) by modifying the 85–15 rule in the following ways. Under the bill the ratio requirement would not apply to courses of study leading to a standard college degree. The bill would also narrow the breadth of the rule by excluding those students receiving Federal Grants from being considered in the computation of the percentages. These two changes would reduce the scope and breadth of the rule so it would be able to accomplish its purpose without adversely affecting those who were meant to benefit from veterans education legislation, namely the veterans. Most of the overpayment problems experienced by the V.A. have their source in the non-standard college degree granting institutions which would remain covered by the 85–15 rule (including the waiver provision) under HR 5939.

On another vein, I find nothing wrong with an educational institution which tailors its courses for veterans so long as it provides the veterans with an adequate education. The burden of asuring an adequate education should fall more heavily on the V.A. and the state approving agencies. To this end a better and more thorough approval system is needed to check the abuses. Since a major concern of this Subcommittee is the prevention of the misuse/abuse of federal funds a greater degree of atention should be devoted to the method by which courses are aproved for veterans educational benefits. The V.A., using federal funds, pays the state approving agencies to investigate and decide whether schools should be approved for veterans educational benefits. If the state approving agencies are not doing their job as the over-payments sem to indicate, the abuse of federal funds is occuring on more than one level.

One final point remains to be made with regard to the 85–15 rule. There are a number of ways of cutting down the abuse/misuse of federal funds in this case without applying a rule which in relative terms, is a failure in the final cost/benefit analysis. The 35 percent limitation on the overall veteran population at an educational institution, whether it grants a standard college degree or not, is a sufficient check. Similarly the elimination of prepayment goes a long way toward curbing veteran abuse of the educational funds. If the payment is made at the end of the month, the V.A., with receipt of appropriate attendance records, should be better able to determine whether the payment is justified.

I would like to make a few brief comments concerning the 10 year delimiting date for veterans educational benefits. Many veterans returning from the war have a set of priorities which in many cases is inconsistent with a 10 year delimiting date. Some veterans have to undergo considerable readjustment. Monetary pressures usually will lead a veteran to seek a job rather than pursue an education immediately. Finally, there is the matter of the veteran reuniting with his family. All of these things take time and as a result some veterans lose their educational benefits because of the expiration of the delimiting date. I understand that administrative considerations (V.A. record keeping, etc.) require some sort of limitation. To this end, I introduced H.R. 5938 on April 4, 1977 to extend the delimiting date from 10 to 15 years as a sort of compromise between veteran needs and administrative requirements.

By way of summary, I would like to reiterate the need for a toning down of the breadth and scope of the 85–15 rule and a similar need to extend the delimiting date from 10 to 15 years.

This concludes my statement. I respectfully request that this statement be made part of the record and wish to thank Chairman Teague for giving me this opportunity to express my views on veterans educational benefits.

STATEMENT OF CONGRESSMAN BOB WILSON

Mr. Chairman, I appreciate the opportunity to submit testimony relative to an area of grave concern to me, namely the changes made last year in the Veterans' Educational Benefits Program by Public Law 94–502.

Some of the provisions of Public Law 94–502 have put the educational institutions and the Veterans' Administration in an adversary position which is quite counterproductive to the goal of the legislation itself—assisting the Vietnam veteran to upgrade his education and job skills so that he can more effectively compete for employment with those whose lives and civilian pursuits were uninterrupted by wartime service.

I have met with the Veterans' Officers of the colleges in my district on a number of occasions and have been very impressed by their dedication to this task. While their programs are aimed at aiding all veterans, I'm particularly pleased with the special emphasis many institutions in the San Diego area are giving to recruiting and retaining minority and disadvantaged veterans. This veterens' group suffers a partcularly high rate of unemployment or under-employment and often requires a special effort to reach and enroll in education programs.

While trying to increase their outreach and counseling activities, the schools have had their already onerous burden of paperwork substantially increased by the new requirements of Public Law 94–502. Of particular concern to me are the

85/15 and two-year rules. The intent of both these changes, adopted in the hectic last few days of the 94th Congress, is commendable. We certainly want to eliminate the abuse of Federal funds perpetrated by the diploma mills which cater to the often unsuspecting veteran. In going after the villians, however, we are penalizing many more innocent and responsible educational institutions who find their efforts to aid the veteran frustrated by mountains of new paperwork. I know that my own paperwork load has mushroomed beyond belief in recent years and I am most sympathetic to the plight of these colleges and universities.

Frankly, I do not comprehend the logic of including students participating in other Federally-funded education programs like BEOG and SEOG in formulating the 85/15 rule. These are programs administrated by a seperate Federal agency and targeted toward a totally different student population. Veterans seldom receive favorable consideration for BEOG/SEOG and other HEW-funded education programs because of their entitlement to G.I. Bill benefits. We are in effect combining apples and oranges, and I do not see the common denominator.

Believe me, I feel strongly about the need to assure that our scarce dollars for veterans' programs are used wisely. By the same token, we reach the point of overkill by penalizing many fine public and private institutions for a problem which they did not create. Although the law contains some provision for waivers, this is not sufficient. I urge the Subcommittee to fully reexamine the entire situation and either repeal, as proposed by my bill, H.R. 6172, or substantially modify the 85/15 rule. Additionally, I know there is considerable unhappiness with the two-year rule and I urge its reevaluation as well.

As a final comment, I would urge the Subcommittee to take a close look at the costs to the individual schools for V. A. certification processing. Although Public Law 94-502 made a very slight increase in the V. A. reporting fee, it is still way out of line with the actual costs. I would like to submit for the record a survey conducted last year by the San Diego County Veterans Task Force, which delineates on a school-by-school basis the per-veteran costs of certification, and a cost analysis paper prepared by the San Diego Community Colleges. I urge your favorable consideration of an increase in the V.A. reporting fee to a level which more nearly approximates the actual costs involved.

Let me thank you again for the opportunity to present this information to the Subcommittee and I urge your early and favorable action on revising the 85/15 and two-year rules and increasing the V. A. reporting fee. The schools and their Veterans' Officers are dedicated to helping the veteran achieve his educational and vocational potential and it is most unfortunate when well-intentioned legislation is a deterrent to this goal.

Mr. MOTTL. If there are no other witnesses, the subcommittee will stand adjourned.

Without objection, the subcommittee is adjourned.

[Whereupon, at 11 a.m., the subcommittee adjourned.]

REVIEW OF PUBLIC LAW 94-502, THE VETERANS' EDUCATION AND EMPLOYMENT ASSISTANCE ACT OF 1976 AND THE VETERANS' EDUCATION AND TRAINING PROGRAM

H.R. 917—a bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, and for other purposes

H.R. 2102—a bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons for other purposes

WEDNESDAY, MAY 11, 1977

U.S. House of Representatives,
Committee on Veterans' Affairs,
Subcommittee on Education and Training,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m. in room 334, Cannon Office Building, Hon. Ronald M. Mottl (acting chairman) presiding.

Mr. Mottl. The subcommittee will now come to order.

Today the subcommittee has invited Veterans Administration officials to appear before the subcommittee for two purposes. First, the subcommittee is continuing its oversight hearings on the implementation of Public Law 94-502, the Veterans' Education and Employment Assistance Act of 1976. The Veteran Administration has been requested to respond to a number of issues regarding Public Law 94-502 and to answer questions regarding issues and complaints raised by witnesses who have appeared before the subcommitee since the VA testified at our hearings last March.

In addition, the subcommittee has requested the Veterans Administration to comment on two bills, H.R. 917 and H.R. 2102, both of which propose increases in the veterans' education and training rates. The subcommittee has also invited veterans' organizations representatives to appear before the subcommittee to hear their views with regard to proposals for cost-of-living increases in veterans' education and training rates.

At this point I would like to insert into the record two bills, H.R. 917 and H.R. 2102 and the Veterans Administration report on these two bills.

The Chair hearing no objection, the reports will be inserted into the record.

[Reports follow:]

95TH CONGRESS
1ST SESSION

H. R. 917

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1977

Mr. HAMMERSCHMIDT introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Education Amendments of 1977".

SEC. 2. The table contained in section 1504 (b) of title 38, United States Code, is amended to read as follows:

I

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$249	$308	$362	$26
Three-quarter-time	187	231	272	20
Half-time	124	154	182	13
Farm cooperative, apprentice, or other on-job training:				
Full-time	217	262	303	20".

SEC. 3. Chapter 34 of title 38, United States Code, is amended—

(1) by amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$321	$382	$436	$26
Three-quarter-time	241	286	327	20
Half-time	161	191	218	13
Cooperative	259	304	344	20";

(2) by striking out in section 1682 (b) "$292" and inserting in lieu thereof "$321";

(3) by amending the table contained in paragraph (2) of section 1682 (c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$259	$304	$344	$20
Three-quarter-time	194	228	259	15
Half-time	130	152	173	10";

(4) by striking out in section 1692 (b) "$65" and "$780" and inserting in lieu thereof "$72" and "$864", respectively.

(5) by striking out in section 1696 (b) "$292" and inserting in lieu thereof "$321".

SEC. 4. Chapter 35 of title 38, United States Code, is amended—

(1) by striking out in section 1732 (b) "$235" and inserting in lieu thereof "$259"; and

(2) by amending section 1742 (a)—

(A) by striking out "$292" and inserting in lieu thereof "$321"; and

(B) by striking out “$92” in each place it appears and inserting in lieu thereof “$101”; and

(C) by striking out “$9.76” and inserting in lieu thereof “$10”.

Sec. 5. Chapter 36 of title 38, United States Code, is amended—

(1) by striking out in section 1786 (a) (2) “$292” and inserting in lieu thereof “$321”; and

(2) by amending the table contained in paragraph (1) of section 1787 (b) to read as follows:

“Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$233	$262	$286	$12
Second 6 months	175	204	228	12
Third 6 months	117	145	169	12
Fourth and any succeeding 6-month periods	58	87	111	12”;

(3) by striking out in section 1798 (b) (3) “$292” and inserting in lieu thereof “$321”.

Sec. 6. The provisions of this Act shall take effect October 1, 1977.

95TH CONGRESS
1ST SESSION

H. R. 2102

IN THE HOUSE OF REPRESENTATIVES

JANUARY 19, 1977

Mr. MOTTL introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the table contained in section 1504(b) of title 38, United States Code, is amended to read as follows:

I

“Column I	Column II	Column III	Column IV	Column V
Type of train ng	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$237	$294	$345	$25
Three-quarter-time	178	220	259	19
Half-time	119	147	173	13
Farm cooperative, apprentice, or other on-job training:				
Full-time	205	250	289	19”.

SEC. 2. Chapter 34 of title 38, United States Code, is amended—

(1) by striking out in the last sentence of section 1677 (b) “$270” and inserting in lieu thereof “$284”;

(2) by amending the table contained in paragraph (1) of section 1682 (a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$307	$364	$416	$25
Three-quarter-time	230	273	312	19
Half-time	154	182	208	13
Cooperative	247	290	328	19";

(3) by striking out in section 1682 (b) "$292" and inserting in lieu thereof "$307"; and

(4) by amending the table contained in paragraph (2) of section 1682 (c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$247	$290	$329	$19
Three-quarter-time	185	217	247	15
Half-time	124	145	165	9".

SEC. 3. Chapter 35 of title 38, United States Code, is amended—

(1) by striking out in section 1732 (b) "$235" and inserting in lieu thereof "$247"; and

(2) by amending subsection (a) of section 1742 to read as follows:

"(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on behalf of such person a special training allowance computed at the basic rate of $307 per month. If the charges for tuition and fees applicable to any such course are more than $97 per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed $97 per calendar month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each $10.25 that the special training allowance paid exceeds the basic monthly allowance.".

Sec. 4. Chapter 36 of title 38, United States Code, is amended—

(1) by striking out in section 1786 (a) (2) "$292" and inserting in lieu thereof "$307";

(2) by amending the table contained in paragraph (1) of section 1787 (b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$222	$250	$273	$12
Second 6 months	167	194	217	12
Third 6 months	111	138	162	12
Fourth and any succeeding 6-month periods	56	83	106	12".

and

(3) by striking out in section 1798 (a) "$292" and inserting in lieu thereof "$307".

Sec. 5. This Act shall become effective on October 1, 1977.

[No. 27]

COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, D.C., May 10, 1977.

Hon. RAY ROBERTS,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your requests for reports by the Veterans' Administration on H.R. 917 and H.R. 2102, similar 95th Congress bills "To amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons, and for other purposes."

Both measures have as their common purpose the providing of increases in educational assistance allowances paid to eligible veterans and dependents training under chapters 31, 34, 35, and 36 of title 38, United States Code. There are, however, three differences between the two bills.

First, H.R. 917 would increase assistance rates by 10 percent whereas H.R. 2102 would provide a 5 percent increase. Second, H.R. 917 would provide rate increases for tutorial and PREP programs, but would not increase the benefit rate for flight training. Third, H.R. 2102 would provide an increase for flight training, but would not provide any increases for tutorial and PREP.

The underlying purpose of our educational assistance programs is to provide financial aid to veterans and eligible dependents. These programs have never been intended to be a total (or permanent) replacement for the ability of the individual to otherwise provide for his or her educational needs. It should be emphasized that over the last several years, substantial increases in educational benefits have been provided by law. These increases are as follows: Public Law 91-219 (1970)—34.6 percent; Public Law 92-540 (1972)—25.7 percent; Public Law 93-508 (1974)—22.7 percent; and Public Law 94-502 (1976)—8 percent. The rate increases cited were provided for institutional training. Comparable rate increases were also provided for educational programs other than institutional.

The most recent statistics we have examined show that overall college costs in the school year 1977-78 increased by approximately 1.5 percent for commuter students at 4-year colleges to approximately 5 percent at 4-year private colleges, compared with costs for the 1976-77 school year. It would appear that at a large number of schools tuition and fees have remained fairly stable during this period while at some others they have increased somewhat.

Between October 1, 1976, the effective date of the rate increase granted by Public Law 94–502, and April 1, 1977, the Consumer Price Index (CPI) has risen from 172.6 to 178.2, an increase of 3.2 percent. It is predicted that by October 1, 1977, the date when each of these two measures would become effective, the CPI will have increased by approximately 5 percent. This, of course, is merely an estimate, but at the present time represents the best available projection.

The Veterans' Administration supports an increase in educational assistance benefits, but strongly recommends that any boost be limited to 5 percent, the figure proposed by H.R. 2102. Such an increase would raise the monthly assistance allowance for a single veteran pursuing full-time institutional training to $307 per month, to $364 per month for a married veteran without children, and to $416 per month for a veteran with a wife and one child.

The Tuition Assistance Study, prepared by the Veterans' Administration in November 1975, showed that nearly 80 percent of all veterans pursuing institutional training under the GI bill had tuition and fee costs of less than $750 per school year. Thus, we believe that for the vast majority of veterans the monthly allowance benefits, as increased last fall and as proposed to be increased this year, should provide adequate assistance.

For those choosing to attend high-cost schools, there are a number of other Federal assistance programs, available to veterans, which provide additional assistance. Examples are the basic educational opportunity and supplemental educational opportunity grant programs, and the various student loan programs administered by the Department of Health, Education, and Welfare. Finally, where there is additional need for educational funds, over and above monthly assistance allowances and the other programs just mentioned, there is available, through our veteran-student loan program (38 U.S.C. 1798), eligibility for low interest, direct Federal loans in amounts up to $1,500 for an academic year (more where the individual also attends summer school). This figure was recently increased by Public Law 94–502, enacted October 15, 1976.

With respect to the education loan program, it should be noted that on January 19, 1977, the former Administrator of the Veterans' Administration, with the approval of the prior Administration, transmitted to the Congress proposed draft legislation designed to terminate the education loan program. In view of the desire of some veterans to attend higher cost institutions, the Administration believes that support for this proposal should be withdrawn and the VA educational loan program should continue.

We would now like to turn to a discussion of the differences between the two measures. We agree with the proposal in H.R. 2102 to deny the increase in benefits for the PREP program. In enacting Public Law 94–502, the Congress provided in section 210(5) that no enrollments or reenrollments in the PREP program provided under chapter 34 of title 38 would be permitted after October 31, 1976. Since PREP programs are, for the most part, short term courses of only a few weeks duration, this provision, for all practical purposes, terminated the PREP program authorized under that chapter.

The PREP program currently affects only those eligible individuals who train under chapter 32 of title 38, the new contributory educational program for those persons initially entering service on and after January 1, 1977. In addition, the only individuals who can pursue PREP training are those who are in the last 6 months of the first period of their service after January 1, 1977. Since enlistments in the military generally run for 3 years or more, it is very unlikely that anyone will be pursuing PREP training for some period of time and any increase placed in the law now would be unnecessary.

H.R. 917, unlike H.R. 2102, would provide an increase in tutorial assistance rates. We believe that to be consistent with other rate increases in the past, any increase in general benefits provided by the Congress should be applied equally to this program.

We oppose those provisions of both H.R. 917 and H.R. 2102 which would provide an increase in correspondence training benefits. We also oppose these provisions of H.R. 2102 which would provide an increase in benefits for pursuit of flight training. In lieu of the increases, we would urge the committee to give favorable consideration to termination of both these programs.

Our years of experience in administering education programs for veterans and their survivors convince us that flight and correspondence courses have not fulfilled their intended purpose—helping the beneficiary adjust to his or her changed circumstances by providing the training required for basic employment objectives.

In both cases there is ample evidence that the training does not lead to jobs for the majority of trainees and that the courses tend to serve avocational, recreational, and/or personal enrichment, rather than basic employment objectives.

Census Bureau figures for 1975 indicate that, nationwide, an average of 60,000 persons earn their living in occupations to which flight training programs are relevant. Since 1967, more than double that number of flight program trainees—over 120,000—have received GI bill benefits, indicating that many who trained under the GI Bill are not employed in occupations related to their flight training. The majority of flight training hours are incurred on weekends, suggesting the veteran is regularly employed during the week. Flight courses are exepensive, rapidly using up a veteran's educational entitlement. In addition, the most recent statistics show that only 60 percent of flight students training under he GI bill complete their programs

Completion rates for correspondence courses are even lower than those for flight training, with only 41 percent of those enrolled completing their programs. The 41 percent rate is an average, and includes complex, technical courses with completion rates as low as 5 percent as well as courses with simple material with completion rates up to 60 percent. Correspondence courses generally are taken by persons who are employed full time, indicating they are being used for purposes other than gaining the education required for basic employment, as intended.

It is estimated that enactment of H.R. 917 would result in additional direct benefits cost in fiscal year 1978 of $367.2 million and in estimated additional direct benefits cost over the first 5 fiscal years of over $1.4 billion. A breakdown of estimated costs by fiscal year and number of trainees follows:

	Trainees	Direct benefits cost (millions)
Fiscal year		
1978	1,883,230	$367.2
1979	1,683,700	328.2
1980	1,453,500	283.3
1981	1,220,000	237.9
1982	997,400	194.5
5-yr total		1,411.1

Enactment of H.R. 2102, it is estimated, would result in additional direct benefits cost in fiscal year 1978 of $185.4 million and in additional direct benefits cost over the first 5 fiscal years of $712.5 million. A breakdown of estimated costs by fiscal year and number of trainees follows:

	Trainees	Direct benefits cost (millions)
Fiscal year:		
1978	1,908,200	$185.4
1979	1,705,900	165.8
1980	1,472,400	143.1
1981	1,235,600	120.1
1982	1,010,000	98.2
5-yr total		712.5

In summary, the Veterans' Administration favors a rate increase for veterans and dependents pursuing programs of education under chapters 31, 34, 35, and 36 of title 38, but recommends that any increase be limited to 5 percent. We oppose any increase in PREP, flight, and correspondence training, but support an increase in tutorial assistance. We urge the committee to give favorable consideration to our recommendations to terminate flight and correspondence training programs.

As a technical matter, there is a printer's error on page 5, line 11 of H.R. 2102. The amendment proposed should be directed to section 1798(b)(3), rather than section 1798(a).

In recent months the number of veterans in training have been declining, and we continue to seek more current estimates in this regard. If information reveals further changes in the number of veterans in training, we will promptly furnish you with revised cost estimates and training loads.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

MAX CLELAND,
Administrator.

Mr. Mottl. Our first witness will be Mr. Andrew H. Thornton, Director of Education and Rehabilitation Service of the Veterans Administration.

It is a pleasure to have you with us again, Mr. Thornton, you may proceed, and if you would like to introduce your colleagues, you may do so for the record.

STATEMENT OF A. H. THORNON, DIRECTOR, EDUCATION AND REHABILITATION SERVICE, VETERANS' ADMINISTRATION, ACCOMPANIED BY WILLIAM G. MALONE, ASSISTANT GENERAL COUNSEL; JUNE SCHAEFFER, ASSISTANT DIRECTOR, BENEFITS AND FACILITIES, EDUCATION AND REHABILITATION SERVICE; WILLIAM BUFFINGTON, BUDGET ANALYST; AND MARTIN D. CARLIN, EXECUTIVE ASSISTANT TO THE CONTROLLER

Mr. Thornton. Thank you, Mr. Chairman, and members of the committee.

I would like to introduce the people that are here with me. On my left I have Mr. William G. Malone, who is the Assistant General Counsel. On my right is Miss June C. Schaeffer. She is the Assistant Director for Benefits and Facilities in the Education and Rehabilitation Service.

At the table behind me, on the right, is Mr. William Buffington of our budget staff, and on his left is Mr. Marty D. Carlin, the Executive Assistant to the Controller.

We are pleased to have this opportunity to testify before your committee in response to the testimony given by members of the higher education community, service organizations, and officials involved in program administration. We also want to provide you with information about how our program is progressing. Finally, we will offer some thoughts about certain measures before the Congress which would grant a rate increase in education benefits.

Those of us at the Veterans Administration charged with the responsibility for administering the veterans' educational program appreciate the thought and effort that obviously went into the preparation of the various statements by school groups and others. This is not to say, however, that we agree with everything that was said during the 2 days of hearings, April 19 and 20, 1977.

The amended 85–15-percent rule was the one provision of Public Law 94–502 which has been most heavily criticized by members of the education community. The sentiment expressed in many of the statements by school groups is that the Veterans Administration has placed the roadblock of the amended 85–15 rule squarely in the path of the veteran who is seeking an education. The implication is that this was done to discourage veterans from enrolling in schools, and it was therefore an antiveteran move on our part.

Nothing could be more removed from the truth or the reality of the situation.

Mr. Chairman, the Veterans Administration suggested to Congress that the 85–15-percent rule might be expanded to cover additional courses for the very purpose of protecting the veteran. There has never been any intent to hinder the veteran. In testimony presented before this committee on March 29, 1977, we outlined the history behind the 85–15-percent rule. It does not seem necessary to repeat the problems that surfaced because of the loopholes that existed prior to the enactment of Public Law 94–502.

Much of the testimony given by many of the higher education associations relative to the 85–15-percent rule paints a grim picture. It leaves the impression that a significant number of veterans will be turned away from courses unless we return to the pre-Public Law 94–502 85–15-percent rule.

And yet, when questioned by Representative Cornell as to how many instances of problems had been encountered along these lines, the witnesses replied that the number was minimal.

We experienced many difficulties following World War II with the schools that operated programs primarily for veterans. That was the reason for the 85–15 rule, which previously did not apply to standard college degree programs. In recent years we have seen some accredited schools, offering standard college degree programs, initiate and expand degree programs that were principally for veterans only.

Congress expanded the 85–15 rule to include all programs to assure that we do not develop the same type problems that we experienced following World War II with nondegree programs. Clearly, the modified 85–15 rule does not make us popular with school administrators. However, as we outlined on March 20, 1977, we have shown that we are flexible with regard to our guidelines. We revised appendix H to make it more workable. In fact, the many waivers provided for in our guidelines should be an indication that the Veterans Administration does not intend to make unreasonable demands upon schools.

Appendices M and O have also been the subject of some harsh words from educators. I would be remiss in my duties not to set the record straight regarding these two appendices. The requirements of appendices M and O are based upon the law. Public Law 94–502 amended section 1780(a), title 38, United States Code, to prohibit payment of educational assistance allowance to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation. This includes a course from which the student withdraws, unless there are mitigating circumstances.

Through appendix M we prohibit certification of audited courses. We require educational institutions to report when a nonpunitive grade is assigned for a course. We also require educational institutions to report withdrawals, which they should be doing now anyway. We believe we are doing the minimum necessary to fulfill the requirements of the law.

We do not restrict a school in exercising its authority to assign nonpunitive grades or to allow withdrawal at any point in time. However, in order to qualify for payment under the law we are limited to those situations in which we are authorized to pay benefits.

Public Law 94–502 amended section 1674, title 38, United States Code, to provide, in part, that unless there are mitigating circumstances, progress will be considered unsatisfactory at any time the eligible veteran is not progressing at a rate that will permit the veteran to graduate within the approved length of the course. We believe that the provisions of appendix O are in accordance with the law.

However, we do not wish to cause educational institutions unnecessary administrative expense. Many colleges have indicated that they may not be able to comply with the guidelines in appendix O. We are therefore considering if the appendix may be revised while remaining consistent with the law.

In this regard, on March 24, 1977, we met with officials of the American Council on Education, the American Association of Community and Junior Colleges, the American Association of Collegiate Registrars and Admissions Officers, and with other representatives of the educational community. The purpose of this meeting was to discuss the schools' problems with appendix O. Out of this meeting came an agreement to set up a small working group to include school officials as well as VA officials to discuss suggestions for a revision of appendix O.

I want to make the point here that we do communicate with educators and educational associations. Sometimes we come to a meeting of the minds, but not all the time. The fact that there is not unanimous agreement about certain guidelines we publish does not mean that there exists a mutual antagonism.

I mention this now because of references I have heard to the adversary relationship that exists between the Veterans Administration and the educational community. Mr. Chairman, I would like to go on record here as affirming that the VA has no intention of telling a school how it must operate. We do intend to specifically inform schools and veterans under what conditions we will pay benefits and the rates we will pay in accordance with the law. We think that, in general, our relationship with educators is one based upon mutual respect.

Part of the problem, I am convinced, is a misunderstanding of what we at the VA are trying to accomplish. We administer Federal funds to provide educational programs for veterans and other eligible persons. We are accountable not only to Congress, but to the American people, for the proper use of these funds. Proper use of these funds implies that we insure that veterans receive a quality education. Our guidelines are simply an effort to guarantee that such a quality education is a reality and not merely nice-sounding rhetoric. For us to do otherwise, Mr. Chairman, would be tantamount to mailing out gratis checks each month to each eligible person.

I would like now to reply to the letter from the American Council on Education with reference to the testimony I gave before this subcommittee on March 29 and 30 of this year.

The charge is made in that letter that the standards of progress regulations cannot be met without schools surrendering their right to set academic standards. It was this very argument which, up until late 1975, lulled the Veterans Administration into a "hands off" policy with regard to institutions of higher learning. The existing philosophy with regard to these institutions was that the had high standards as a general rule and that therefore there was no need for us to "interfere" with their operations. We found that this was not the case.

Some schools, while professing to have standards of progress in their catalogs, in practice allowed students to continue semester after semester with failing grades. It strikes me, Mr. Chairman, that this objection is made as if there had never been any abuse problem.

In view of what has happened over the last 2 or 3 years, we cannot any longer simply presume that all institutions are operating within the framework of adequate standards of progress as contemplated by Congress. We tried it that way, and it didn't work.

This same letter also states that changes in the law are necessary "to avoid a breakdown of the long history of cooperation between the Veterans Administration and the higher education community * * *" We do not want to see any breakdown in the relations, but neither do we want to return to our previous position that institutions of higher learning could do no wrong. The need for standards of progress provisions to insure that veterans are seriously pursuing an education has been firmly established. These provisions came into being to give us the capability of dealing with concrete problems in the administration of the education program. These problems were real. We have not fabricated abuse stories to strengthen our case.

Veterans who never attended classes and repeatedly failed courses were, in fact, allowed by the school to reenroll with no reasonable assurance that the student could successfully pursue the program. We believe that it is reasonable to require professional vocational or educational counseling before allowing these students to continue to receive benefits. Through counseling we attempt to determine that the reason for the unsatisfactory progress has been removed and that the program he is to pursue is in keeping with his interests, aptitudes, and abilities.

This leads me to the contention by some school groups that since veterans are really the ones at fault, why is the Veterans Administration levying all these requirements on schools. As our testimony at the overpayment hearings last year evidences, we are well aware of the abuses perpetrated by veterans themselves. However, the fact that veterans themselves contributed to the situation does not absolve schools for all responsibility, particularly when school policies either encourage or facilitate such abuses.

Other higher education associations contend that our efforts are too scattered and that we should zero in on the so called less reputable schools—the ones which are abusing the system. Like the law itself, our guidelines cannot be applied only to certain schools and not to others. They must be universally applied. We know there are many reputable schools. However, we have no way of knowing—short of prophecy—that these schools will continue to be in compliance. Short of a universal agreement as to what is a "bad" and "good" school, we must proceed to treat all institutions equal under the law.

We believe that we are being reasonable in the application of these laws. For example, our waiver under the 85–15 percent rule has undoubtedly relieved the vast majority of schools from computing on a course-by-course basis the ratio.

Mr. Chairman, we mentioned the provision in our guidelines covering the 85–15 requirement, which allowed for a temporary waiver of the BEOG and SEOG portions of computation requirements. This waiver applies when VA enrollment at a school is over 35 percent and, further, applies only to the current academic year ending June 30, 1977. The original circular on the 85–15 rule, appendix H, was published in November 1976. This particular waiver was granted until

June 30, 1977, in order to give schools sufficient time to set up the recordkeeping mechanics necessary to count BEOG/SEOG recipients in the computation. We believe that the period from November 1976 to the end of June 1977 is a sufficient timeframe for schools to get their records in order. In any event, since approximately 95 percent of the schools in this country can certify that less than 35 percent of their students are veterans, the BEOG/SEOG computation applies to only 5 percent of the schools.

Notwithstanding the foregoing, if evidence can be furnished which indicates that application of this rule would cause unwarranted hardship, and if the authorizing committees believe we should do so, we will give serious consideration to further extension of the waiver of the BEOG and SEOG computations.

One other problem area discussed by some educational groups was the effect of the 2-year rule on courses offered at overseas military installations. The present 2-year rule makes an exception for courses offered under contract with the Department of Defense when certain conditions are met. Presently, the 2-year rule would apply to these courses when civilians attend the course also. The current exemption in the law only applies to courses having military personnel or their dependents in attendance. Before consideration is given to any amendatory legislation allowing waiver of the 2-year rule for overseas military programs, the committee may wish to make a thorough study of such programs.

Mr. Chairman, you have requested the views of the Veterans Administration on H.R. 917 and H.R. 2102, two measures presently pending before your committee, having as their basic purpose an increase in educational assistance allowances for veterans and dependents. H.R. 2102 would increase benefits across-the-board by 5 percent, while H.R. 917 would provide a 10-percent hike.

The Veterans Administration supports an increase in monthly benefits, but strongly recommends that any increase be limited to 5 percent, the figure proposed in H.R. 2102. Enactment of a 5-percent increase would raise the monthly assistance benefit for a single veteran pursuing full-time institutional training to $307 per month, to $364 per month for a married veteran without children, and to $416 for a veteran with a wife and one child.

Substantial increases have been provided in educational benefits over the last several years. Increases of 34.6 percent, 25.7 percent, 22.7 percent, and 8 percent were provided in 1970, 1972, 1974, and 1976 respectively. Between October 1, 1976, the effective date of the last increase, and April 1, 1977, the Consumer Price Index has risen from 172.6 to 178.2, an increase of 3.2 percent. The latest available projection indicates that by October 1, 1977, the effective date proposed in both of these measures, the CPI will have increased by approximately 5 percent.

The most recent statistics we have seen on educational costs show that overall college costs for the school year 1977–78 increased by approximately 1.5 percent for communter students at 4-year colleges to approximately 5 percent at 4-year private colleges, when compared to the 1976–77 school year. These statistics show that increases in educational costs have slowed, and it would appear that at large number of schools tuition and fees have remained fairly stable.

The tuition assistance study, prepared by the Veterans Administration in November 1975, showed that nearly 80 percent of all veterans pursuing institutional training under the GI bill had tuition and fee costs of less than $750. Thus, we believe that for the vast majority of veterans the monthly allowance benefits, as increased last fall and as proposed to be increased this year, should provide adequate assistance.

For those choosing to attend high-cost schools, there are a number of other Federal assistance programs, available to veterans, which provide additional assistance. Examples are the basic educational opportunity and supplemental educational opportunity grant programs, and the various student loan programs administered by the Department of Health, Education, and Welfare.

Finally, where there is additional need for educational funds, over and above monthly assistance allowances and the other programs that I have just mentioned, there is available, through our veteran-student loan program, eligibility for low interest, direct Federal funds in amounts up to $1,500 for an academic year—more where the student also attends the summer term. This figure was recently increased from $600 to $1,500 by Public Law 94–502, enacted on October 15, 1976.

With respect to the education loan program, on January 19, 1977 the former Administrator of the Veterans Administration, with the approval of the prior administration, transmitted to the Congress proposed draft legislation designed to terminate the education loan program. In view of the desire of some veterans to attend higher education institutions, the administration believes that support for the termination proposal should be withdrawn, and the VA educational loan program should continue.

Mr. Chairman, as I pointed out earlier, H.R. 917 and H.R. 2102 differ as to the amount of the benefit increase to be provided. They also differ in three other respects. H.R. 917 would provide rate increases for tutorial and PREP programs, but would not increase the benefit rate for flight training. H.R. 2102, on the other hand, would provide an increase for flight training, but not for PREP and tutorial programs.

In the past, when other rate increases have been provided, the benefit rate for tutorial assistance has been increased. We believe that to be consistent an increase should be allowed at this time for tutorial aid.

We do not, however, see any need for an increase in the PREP benefit program rate. In enacting Public Law 94–502 Congress provided that no enrollments or re-enrollments would be permitted in the PREP program provided under chapter 34 of title 38 after October 31, 1976. Since, for the most part, PREP programs are short-term courses of only a few weeks' duration, this provision, for all practical purposes, terminated the PREP program authorized under that chapter.

The PREP program currently affects only those eligible individuals who train under chapter 32—the new contributory educational program. Further, the only individuals who can pursue PREP training under that program are those who are in the last 6 months of the first period of their service begun after January 1, 1977. Since enlistments generally run for 3 years or more, it is very unlikely that anyone will be pursuing PREP training for some period of time. Thus, any increase provided in the law now would be unnecessary.

We oppose those provisions of both bills which would provide rate increases in correspondence training benefits. We also oppose the proposed increase in flight training benefits which would be provided in H.R. 2102.

Our years of experience in administering education programs for veterans and dependents has convinced us that these two programs have not fulfilled their intended purpose—helping the beneficiary adjust to his or her changed circumstances by providing the training required for basic employment objectives. Therefore, in lieu of any increases for either of these programs, we would urge the committee to give favorable consideration to terminating both the correspondence and flight training programs.

There is one final point I would like to discuss today. The Veterans Administration is cognizant that criticism has been voiced recently that not enough has been done to educate the Vietnam veteran. I believe that it should be made clear that under the current GI bill, as of March 1977, 5,495,196 Vietnam-era veterans and servicemen have trained. This represents 64.6 percent of those eligible—a higher rate than those individuals who trained under either the World War II or Korean conflict programs. We believe this is a good record, but is one on which we are continuing to endeavor to improve.

Mr. MOTTL. Thank you very much, Mr. Thornton, for your very comprehensive statement. The subcommittee will now open for questions. The Chair recognizes the distinquished chairman of the full committee, my colleague from Texas, Mr. Roberts, for any questions.

Mr. ROBERTS. I have no questions, Mr. Chairman. I thank you for holding the hearing.

Mr. MOTTL. Thank you very much, Mr. Roberts. The gentleman from Wisconsin, a distinguished member of this committee Mr. Cornell.

Mr. CORNELL. Thank you, Mr. Chairman. As you are aware, we have had a number of complaints from institutions of higher education associations about the need, because of the VA regulations, of two standards: One for veterans and another for the nonveteran element of their student body. Would you care to comment on that?

Mr. THORNTON. I think that is the very reason that Congress enacted Public Law 94–502 with these requirements. State approving agencies were asking schools to submit standards of progress for veterans. Schools felt the need to establish two sets of standards. Public Law 94–502 will say that if the standards of progress by which the school measures their students will cause an interruption of the student for unsatisfactory progress, the school should report it to the Veterans Administration. We will accept whatever standard the school establishes.

However, Public Law 94–502 goes one step further and says that if the standards of progress that are established by the school would not cause a termination, then they must report unsatisfactory progress at a point in time when they determine that the student cannot graduate within the normal time frame for his course.

So actually, the school can have its own standard, but notwithstanding the standard, if the student is not progressing at a rate that will allow him to graduate within the normal time frame of the course, then they must report it to us. We must provide counseling to the veteran if he wants to receive additional benefits.

Mr. CORNELL. Then if an institution, for example, would only judge its students' progress, say a semester basis, that is satisfactory as far as the VA is concerned?

Mr. THORNTON. Yes, as far as we are concerned the school can establish whatever standard it wants to. It can apply it to veterans and nonveterans alike. However, we do insist that at the point in time when they determine that he cannot graduate within the normal time frame without an extension of his enrollment period—in other words—because of unsatisfactory grades, then he should be reported to the Veterans Administration under Public Law 94–502 as unsatisfactory progress to allow us to call him in for counseling before he receives additional benefits.

Mr. CORNELL. Has the VA considered the possibility of placing more of the responsibility for informing the Veterans Administration on the individual, rather than on the institution?

Mr. THORNTON. Do you mean so far as the standards of progress are concerned, have the veteran report to us when his progress is unsatisfactory rather than the institution?

Mr. CORNELL. Well, in the sense of requiring that they would have to submit to the Veterans Administration a certification or something of that nature. It is the student's responsibility to see that it is submitted, and he would get it from the registrar's office, or whatever it happened to be at the institution, rather than put the responsibility on the institution.

I noted one of the criticisms—I forget the name of the gentleman who made it—was the fact that it was very difficult for large institutions to keep records of all of the veterans and be able to cull these for progress, and such. Why not put the responsibility on the individual, so that he would have to get it from the office and submit it to the Veterans Administration?

Mr. THORNTON. We have not given consideration to having the veteran report his progress. We did at one time have them report their attendance and it was not confirmed by the school. It was a self-serving document. We discontinued it.

I feel that if we implemented such a provision as you have described, for it to be worthwhile, it would have to be verified or endorsed by the schools so that we would know that it was a valid report to us, and I think that the burden would still be on the school, then, to determine that a report is accurate. I don't think we would relieve the school of any responsibility.

Now we have a reporting by exception so that they do not have to make an individual report on each student. The arrangement that you describe would require an indvidual report on each student and would require the school, if it were to be endorsed by the school, to endorse each veteran's document so that they would have to report on 100 percent of their students. It seems to me that would involve more work for the schools.

Mr. **Cornell.** Well, I am not thinking in terms so much of the work. They would do this anyway, because the report would have to be stamped or signed. I am thinking in terms of the question of the responsibility, and transferring the responsibility to the individual, rather than putting the responsibility on the institution. It was just a thought.

In regard to your comments in reference to the proposed legislation's 10-percent increase for educational benefits, I would presume that there is either a typing error or a mathematical error on page 10 when you said the consumer price index in this period of time has risen 172.6 to 178.2, an increase of 3.2. That would be 5.6, if those figures are accurate.

Mr. **Thornton.** That 3.2 percent is arrived at by subtracting 172.6 from 178.2 and dividing the difference by 172.6.

Mr. **Roberts.** What has that got to do with the price index?

Mr. **Thornton.** The consumer price index as of October was 172.6, so that is our base figure. And from there is has risen to 178.2, 3.2 percent above 172.6.

Mr. **Roberts.** Doc, you've got a Ph. D., what——

Mr. **Cornell.** Je ne comprends pas. Maybe we ought to have you teaching in the local schools. [Laughter.]

At any rate, I understand that now the period is different. I also understand however, that as far as the social security increase is concerned that it is a comparison of the first 3 months of this year with last year. The social security cost-of-living increase is 5.9, I believe.

Now I gather that you are using different figures for the period between October 1 and April 1, but it seems to me that 3.2 is hardly the correct figure for that increase. We have to take into consideration what the increase is going to be when this legislation goes into effect.

As you know, during the last 3 months the cost of living, if figured on an annual basis, would be double digit. So I don't think that your figures adequately reflect the increase in the cost of living, and while 10 percent might be a little high, I think that the 5 percent, frankly, is a little low. We have to keep in mind, too, that when you give these statistics about the cost in education—which again I somewhat question in view of what I have read in the paper and from my own personal experience of a number of schools with which I am familiar—we are talking not only about veterans' education costs but also about other costs that they have.

By showing the different increases for a veteran with one dependent and for one with two dependents, you demonstrate these noneducational costs.

So I am inclined to think that 5 percent is a little low and perhaps 10 percent a little high. Maybe we could reach some accommodation between that.

Thank you, Mr. Chairman.

Mr. **Mottl.** Thank you, Father Cornell. Next we will recognize the gentleman from Tennessee, Mr. Allen, for any questions.

Mr. **Allen.** Thank you, Mr. Chairman. I have no questions this morning.

Mr. **Mottl.** Thank you, Mr. Allen. The gentleman from North Carolina, Mr. Hefner?

Mr. Hefner. I have no questions, Mr. Chairman. I am still intrigued about the statistics over here, the mathematics of it, but perhaps we will figure that out later.

Thank you, Mr. Chairman.

Mr. Mottl. We had a professor when I was a student at the University of Notre Dame that told us when we were in our freshman class that we use statistics like a drunk would use a lamp post, that is for support and not for enlightenment, and I would think this might be true in this case. [Laughter.]

Our distinguished colleague from Maryland, Mrs. Gladys Spellman, who is not on this committee, asked us if we would be kind enough to proffer some questions to you for answering here.

A number of schools have been concerned with regard to the prohibition of power of attorney for negotiation of checks which went into effect on December 1, 1976. She has had a number of conversations with members who represent congressional districts in which the colleges and universities were holding checks which cannot be cashed or the veteran located. For example, the University of Maryland is holding about $1.7 million of checks made payable to active duty servicemen who have taken courses at overseas bases in cooperation with the Department of Defense. Because of the Privacy Act it is difficult for these schools to locate the servicemen after they have shipped out to a new base.

On behalf of these Members who are deeply concerned with this problem, I would like to ask the following questions.

First, in an appearance before the subcommittee on April 19 and 20, representing 214 institutions which comprise the National University Extension Association, Dr. Lloyd Davis testified that the retroactive prohibition of the use of power of attorney for negotiation of checks was causing irreparable harm to reputable educational institutions and threatens the termination of many fine programs on military bases.

If the intent of the action was to control future abuse, rather than to deny reputable institutions payment for educational services already rendered, why doesn't the VA permit these institutions to negotiate the checks for moneys due them for courses completed months ago?

Mr. Thornton. Yes, I am aware of the situation at the University of Maryland. The Department of Defense, I understand, has agreed to assist these schools that are holding these checks with locating the servicemen that pursued training that have since been transferred. In other words, give them the correct address so that they can contact them to get these checks negotiated.

Now, as you are aware, our regulations that were published as a result of Public Law 94-502 said that the schools could not negotiate checks on or after December 1, 1976. This has been in court in a number of cases. There have been, I believe, two cases decided that the application that we gave to the law was in keeping with the law and—according to the judge's interpretation—the intent of the law.

There have been a couple of other cases where the judge did not agree and has given the schools permission to cash the checks. There is a third case that is pending where a school has offered a PREP program overseas, and the school is holding checks. The judge has not ruled in this case. We feel that at this point in time that we should not amend our instructions until we find out the outcome of this other case, and there may be other cases.

I will ask Mr. Malone if he knows of others from the General Counsel's Office.

Mr. Malone?

Mr. MALONE. We had one additional case filed last week. We had two cases in California, one in Washington, D.C., one in New Jersey, and one in the State of Washington. And we had one additional case that was filed last week.

Mr. MOTTL. The other questions I would like to ask in behalf of Mrs. Spellman: Does the Department of Defense, in its interpretation of the Privacy Act, help the institutions holding these checks to locate the forwarding address of the active duty serviceman who has executed the power of attorney?

Mr. THORNTON. We understand that they do. We have information from the Office of the Comptroller of the Army at the Department of Defense that Army Regulation 340-17 is interpreted to permit the Army to give current duty stations to schools. So they have agreed—as I understand it—to assist these schools with locating the service personnel.

Mr. MOTTL. What would be the problem, if any, if the law were to be amended to permit institutions to negotiate checks for moneys due them for enrollments in education provided prior to December 1, 1976?

Mr. THORNTON. Well, of course in two cases we have been ordered by the court to do that, and we have allowed the schools to do it. If the law were amended we would have no difficulty in administering it.

I think that it might be a rather long procedure in getting the amendment to the law, and the schools are holding the money. It might be that after this case in the State of Washington is decided that we can go to our General Counsel and determine whether or not we might make some administrative changes in our regulations that would allow the schools to negotiate those checks that were for training prior to December 1, if the school in fact did have the power of attorney.

But I would rather that we wait to make any request to our General Counsel about an opinion on that until we know the outcome of this additional suit that is pending.

Mr. MOTTL. Thank you. The Chair will now recognize Frank Stover to proffer some questions on behalf of the minority, if you will be kind enough to answer those at this time.

Mr. THORNTON. I will be pleased to answer the questions, Mr. Chairman.

Mr. MOTTL. Mr. Stover.

Mr. STOVER. Thank you, Mr. Chairman. These questions are for the minority, and they may have been covered somewhat in your testimony, Mr. Thornton, but I will ask them again here.

Mr. Thornton, do you insist that there has never been any intent by the Veterans Administration to hinder the veteran in his education and training pursuits? We have heard an abundance of claims here in the subcommittee that whatever the intent, the veterans' pursuits have been hindered. It is possible that the 85–15 rule and the 2-year rule, perhaps the way it is being administered by the VA, or interpreted by the VA, is in fact in conflict with your good intentions?

Mr. Thornton. I do not think it is in conflict with our good intentions. I think it is in agreement with our intentions that the veteran get a good program, to get a good education that will qualify him for employment.

Now, when I said that 95 percent of the schools can probably be granted a waiver under the 35-percent rule, in the cases of institutions of higher learning, the number is probably higher than that. We have some 4,000 or more institutions of higher learning in this country. There are probably very, very few of those that cannot certify that less than 35 percent of their student population is being supported by the Veterans Administration.

We know of very few that have come in to us that have not been able to get a waiver from our director at the regional office, and as you know the requests that are denied at the regional office can be submitted to us for review. The Administrator has authority to grant additional waivers. There has been a minimum number come in.

Mr. Stover. Mr. Thornton, you state on page 7 of your prepared text that schools do have their share of responsibility with regard to abuses, quote, "particularly when school policies either encourage or facilitate such abuses," end quote.

Many of the schools and their association representatives insist, however, that in trying to hold the schools to their share of the responsibility the Congress and/or the VA are violating academic freedom, or even dictating to the schools.

Now, what is your reaction, and is there—for example—a middle ground on this particular issue?

Mr. Thornton. I don't think that Congress or the Veterans Administration is dictating policy to schools. I think that Congress recognized that schools are independent of the Federal Government and do operate independent of our guidelines. I think that they recognized it when they included in Public Law 94–502 a requirement for terminating benefits when the standards of progress that the schools adopt would not cause an interruption in the educational benefits, if a student was failing a significant portion of his program. I think Congress recognized that schools can have their own standards and that we are not imposing our standards on them, we are merely prescribing the benefits to be paid and the conditions under which the student can receive benefits.

Mr. Stover. Thank you. The number 3 question has been prepared that relates to page 4 of your prepared text in which you have—in which you recite how you have met with academic and educational officials—education officials on March 24, and that an agreement resulted. In this case it was with regard to appendix O.

However, testimony with representative after representative for this committee and from the educational community have given us complaints and charges which themselves pretty well run the gamut not only of the law as far as problems go, but with regard to communicating with your office and a failure of meeting of the minds with you and the Veterans' Adminstration on many of these problems.

And now the question is can you explain these continued discrepancies and tell us just what the subcommittee is to think.

Mr. Thornton. After our meeting in March on appendix O, the standards of progress, which is one of the appendixes that the educational community has said it a great burden on the schools, the group agreed that they would set up a small task force to work with us to see if we could simplify the guidelines. I am perfectly willing to amend it in any way that we can that will simplify, to cause less burden on the schools, so long as it is in keeping with the law.

The American Association of College Registrars and Admissions Officers, I believe, is the group that is responsible for setting up the task force, getting the people together, and giving us information. So far they have not called to set a date for the meeting. We did receive a letter from the executive director of the association. The letter gave us no instructions on what the task force that they have had working on it thinking in the way of an amendment to appendix O.

It did propose that appendix O, or the section of the law that requires appendix O, is unnecessary—they feel—because most schools have satisfactory standards.

As recently as yesterday Dr. Doug Connor, the executive director of the AACRAO called me and talked about the task force further. He said so far that the people from the schools that they have had in to discuss this directive have had no concrete suggestions, but he will continue to work with them and he is willing to get them together and work with us and see if they can come up with something.

But as of yesterday, they have not.

Mr. Stover. Thank you. Mr. Chairman, I think that Mr. Thornton has essentially covered and answered the fourth question, so that completes the questions for the minority.

Mr. Mottl. Thank you. Father Cornell, do you have a further question?

Mr. Cornell. Well, I would just like to—before we close—make an apology to Mr. Thornton that whoever figured out the cost-of-living increase figures will not qualify for teaching basic mathematics in District of Columbia schools. The subtraction and the division are correct. It is just the formula that I do not understand.

Thank you.

Mr. Mottl. Thank you very much, Father Cornell.

The Chair has a few additional questions which will be submitted to you through Mr. Stover, and if you would be kind enough to answer those in writing for the record, the Chair would certainly appreciate that, Mr. Thornton.

Mr. Thornton. We will be glad to.

Mr. Mottl. And are there any other questions of Mr. Thornton?

[No response.]

Mr. Mottl. If not, thank you very much, Mr. Thornton. We appreciated your testimony and answers to the questions this morning.

[The questions and answers follow:]

[The first three questions were answered in the transcript.]

Question 4. Do you know of any instances when forms of Federal assistance other than BEOG's and SEOG's were counted on the 85 percent side of the 85–15 rule?

Answer. We know of none.

Question 5. Has the Veterans' Administration received any petitions for waiver of the 85–15 rule by the veteran? If so, how do you handle such a request?

Answer. Many times a request for waiver of the 85–15 percent waiver has been received from an individual veteran at approximately the same time as a request was received from his school. We have not received in Central Office an individual request independently of a request from the individual's school. If one were received, we would ascertain what the situation was at the individual's school. We would consider this along with any points the individual may raise concerning his or her own case. Generally, however, requests for waiver of the 85–15 percent requirement are received by the VA from the school itself.

Question 6. Have there been any veterans who have complained to the Veterans' Administration regarding the application of the standards of progress provision as it relates to the veteran's own case?

Answer. Since this would be a matter considered on a case-by-case basis, we have no records of any such complaints. A veteran has the right to appeal any time his or her benefits are terminated due to unsatisfactory progress. In Minnesota, various plaintiffs (veteran-students) had their VA benefits terminated because of unsatisfactory progress. They sought a Temporary Restraining Order (TRO) on the basis that they were not given the opportunity for a pretermina-hearing. On March 3, 1977, the court denied a TRO and a hearing on a preliminary injunction and certification of the class took place on April 29, 1977. The court has taken the matter under advisement (*Waterman, et al.* v. *Roudebush, et al.*, D. Minnesota, CA 4–77–70.)

Question 7. A recent release by the VA indicated that education loans for veterans have nearly doubled during the past year. For example, the VA approved 1,516 education loans during March 1977 as contrasted to 870 during March 1976. Would you please tell the Snubcommittee how the VA approved education loans, and what is your definition of a needy veteran under the terms of this program?

Answer. A student applies for a loan by completing an application form that asks for financial information, enrollment data and certificttion of denial of Guaranteed Student Loans. An eligibility determination is made from the information on the application form based on the following criteria:

1. Attendance at an educational institution on at least a half-time basis;
2. Enrollment in a course leading to a standard college degree; or, enrollment in a course, the completion of which requires 6 months or longer, leading to an identified and predetermined professional or vocational objective;
3. Denial of a Guaranteed Student Loan by at least two lenders, unless fewer than two lenders within normal commuting distance are known by the school financial aid officer, to be participating in such program;
4. Receipt of VA educational assistance allowance; and
5. Financial resources that may be reasonably expected to be expended for education needs which are insufficient to meet the expected actual cost of attendance.

In making this determination, all financial resources are considered with the exception of non-liquid assets, such as stocks and bonds. Financial resources include all loans, grants, scholarships, family contributions, taxable income cash assets (including checking and savings accounts) and VA education assitance over the period for which the loan is to apply. The actual costs of attendance include tuition, fees, books, supplies, room and board, commuting expenses and such other expenses as are reasonably related to attendance at the institution, including living expenses of the student and his or her established dependents.

A "needy veteran" is one for whom the actual costs of attendance exceed the available financial resources by $50 or more.

Question 8. A number of educational institutions have filed suits with regard to checks received for veterans which cannot be cashed by the school because cashing checks would violate a provision of Public Law 94-502 and prohibits assignability of veteran benefits. Is it an accurate statement that most of these checks that the schools have been unable to cash were for training under the predischarge program (PREP) which was terminated by Public Law 94-502?

Answer. Of six cases currently in litigation, pertaining to educational institutions and DVB Circ. 20-76-84, Appendix D, one involves PREP. It is not accurate to state that most of the checks that schools have been unable to cash were for training under PREP.

Question 9. The 85-15 rule has now been in effect for a number of months. Could you please give the Subcommittee an estimate of the number of courses which have failed approval because of the 85-15 rule; Further, would you please provide for the Subcommittee the type of schools which have provided courses which have contravened the 85-15 rule?

Answer. It is virtually impossible to provide such an estimate, since the number will vary from day to day. In addition, some courses will only temporarily be disqualified, since when the correct percentage is attained, the course is then available for VA benefits.

The following schools have had problems with qualifying courses under the 85-15 rule, and, in fact, have filed court actions against the VA. They are: National College of Business in South Dakota; Detroit College of Business in Michigan; Owensboro Business College in Kentucky; Johnson and Wales College in Rhode Island; Fisher Jr. College in Massachusetts; Jones College in Florida; Alabama Christian College in Alabama; and Milwaukee Stratton College in Wisconsin. In general, schools having courses not meeting the 85-15 rule have been business schools and 2-year community or junior colleges.

Question 10. I have before me a letter signed by a number of individuals representing educational institutions who are members of the American Council on Education. As I understand their letter, which is signed by all of these members, these institutions are unable to comply with the 85-15 rule and standards of progress requirements. I understand that representatives of these institutions have met with you on these problems that these institutions have been having. Would you please inform the Subcommittee of the results of your meetings with the members of the American Council on Education?

Answer. After our meeting in March on Appendix O, standards of progress, which is one of the appendices that the educational community has said is a great burden on the schools, the group agreed that they would set up a small task force to work with us to see if we could simplify the guidelines. We are perfectly willing to amend it in any way to simplify matters and to cause less burden on the schools, so long as it is in keeping with the law.

The American Association of College Registrars and Admissions Offices, we believe, is the group that is responsible for setting up the task force, getting the people together, and giving us information. So far they have not called to set a date for the meeting. We did receive a letter from the Executive Director of the Association. The letter gave us no instructions on what the task force is thinking in the way of an amendment to Appendix O.

It did propose that Appendix O, or the section of the law that requires Appendix O, is unnecessary—they feel—because most schools have satisfactory standards.

As recently as yesterday (May 10), Dr. Doug Conner, the Executive Director of the AACRAO called and talked about the task force further. He said, that so far, the people from the schools that they have had in to discuss this directive have had no concrete suggestions but he will continue to work with them and he is willing to get them together and work with us and see if they can come up with something. But as of yesterday, they have not.

Question 11. The Subcommittee has had a number of complaints about the change from prepayment to postpayments for veterans' education checks. In addition, some are objecting to the requirement that it will be necessary to re-enroll when the fall term begins even though these veterans are enrolled in a year-round education program. The thrust of these letters is that these veterans will have to find some additional money to pay for fees and other expenses when the new term begins in the fall and that the first check will not arrive until a month or so later. Are veterans who are enrolled in a year-round educational program eligible for veterans' education loans to meet their expenses at the beginning of the new term?

Answer. We have received numerous comments about the effect the new procedures in this circular will have on continuing students. A change to the circular has been prepared which will permit fall enrollments to be certified to the Veterans' Administration during a student's summer term provided the student is preregistered for the fall term and provided there will be less than a full calendar month break between summer and fall of payments for the continuing students without duly aggravating the overpayment problem. Our regional offices will distribute copies of these revised instructions ot all schools within their areas as soon as copies are available.

Veterans who are enrolled in a year-round educational program are eligible for veterans' education loans to meet their expenses at the beginning of the new term.

Question on last page. Is the Bureau of Indian Affairs assistance for a person attending a course counted as a part of the 85 percent in the 85–15 rule?

Answer. No, it is not.

Mr. MOTTL. There being no objection, I will submit for the record the following information from Mr. Martin P. Busbee of the National Association of State Approving Agencies.

[The information follows:]

NATIONAL ASSOCIATION OF
STATE APPROVING AGENCIES, INC.,

April 29, 1977.

Mr. FRANCIS W. STOVER,
Deputy Counsel, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, D.C.

DEAR SMOKEY: On behalf of the National Association of State Approving Agencies, it is respectfully requested that consideration be given to amending paragraph 1774, Title 38, U.S. Code, paragraph (b) entitled, Reimbursement of Expenses, by increasing the allowable for administrative expenses by approximately 5 percent.

This request is based on the increased cost of operations which all of us are experiencing.

For your convenience, I am attaching a suggested revision.

Please accept my sincere thanks for the many considerations that you have given the State Approving Agency over the years and please be assured that all of us, with me heading the list, are most appreciative of all of your efforts to assist us.

Sincerely,

MARVIN P. BUSBEE,
Legislative Director,
National Association of State Approving Agencies, Inc.

Enclosure.

Total salary cost reimbursable under this section	*Allowable for administrative expense*
$5,000 or less	$630.
Over $5,000 but not exceeding $10,000	$1,134.
Over $10,000 but not exceeding $35,000	$1,134 for the 1st $10,000 plus $1,050 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000	$6,860.
Over $40,000 but not exceeding $75,000	$6,860 for the 1st $40,000 plus $910 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$13,610.
Over $80,000	$13,610 for the 1st $80,000 plus $795 for each additional $5,000 or fraction thereof.

Mr. MOTTL. I have before me a list of lawsuits filed against the Veterans Administration with regard to the education and training programs. A number of these lawsuits have been discussed during these hearings. Without objection I will make this information a part of the hearing record at this point.

[The information follows:]

STATUS OF EDUCATIONAL LITIGATION AS OF MAY 10, 1977

38 U.S.C. 1785 (SCHOOL LIABILITY FOR OVERPAYMENTS)

1. Colorado.—On April 5, 1977, a U.S. District Court held that section 1785 of title 38, United States Code, is constitutional. This section, which was being challenged by the State of Colorado, provides for recovery from schools for overpayments to veterans in certain cases where the overpayment has been the result of the willful or negligent failure of the school to report information regarding the veteran's attendance to the VA. The court also held that the VA was not a suable entity and that the 30 day time limit for a school to report changes was reasonable and did not violate section 1782 of title 38. However, the court held that adjudications under section 1785 must conform to the Administrative Procedures Act and any liability assessed without such conformity is invalid. The court also held that the VA could not assert liability against a school if the overpayment was waived as to the veteran. An appeal is being considered. Meanwhile, the Government filed for an amended order on April 18. (*State of Colorado, et al, v. VA, et al.*, USDC D Colorado, CA 76–F–1114.)

2. Maine.—This case is substantially identical to the case in Colorado. On March 9, 1977, the court vacated a TRO which had been in existence since January 17. The plaintiff has filed a second amended complaint, and the Government is preparing its answer. No date has been set for a trial. (*Superintending School Committee, etc. v. VA, etc.*, USDC SD Maine, CA 76–177.)

3. Florida.—On April 1, 1977, the Florida Board of Regents brought suit against the VA on the identical issues discussed above. The papers were not received by the U.S. Attorney until April 4, 1977. Although we were advised that the plaintiff would seek a TRO on April 6, they have not yet done so. They filed for a preliminary injunction on April 7, 1977. No date has been set for a hearing. (*Board of Regents of the State of Florida v. Veterans Administration of the United States, et al.*, USDC ND Florida, Tallahassee Div., CA 77–07–76.)

Chronology of *William E. Chambers, et al. v. Max Cleland, Administrator, et al.*, USDC D Mass., CA 77–826–F

March 23, 1977 (Wednesday)—Ten veterans and Fisher Jr. College filed a suit (Complaint dated 3–22–77) seeking to enjoin the defendants from enforcing the 85–15 and 2-year rules, and declaring such rules unconstitutional. The court issued a TRO enjoining the VA from enforcing section 205(4) and section 509(b)(4) of Public Law 94–502 as to the veterans only. In other words, Fisher Jr. College was not included in this order. The U.S. Attorney and VA were furnished a copy of this order and proceeded to start processing the applications for these ten veterans.

March 24, 1977 (Thursday)—The school's attorney furnished the U.S. Attorney by messenger a copy of a motion he intended to file seeking to have the TRO amended to include the school.

March 25, 1977 (Friday)—The school filed motion to amend the TRO to have itself included. The U.S. Attorney filed a motion in opposition to said amendment by signing the plaintiffs' motion and writing the word "allowed." The plaintiffs' attorney mailed to the U.S. Attorney a memo in support of the motion. It was received in the U.S. Attorney's Office on March 30. Neither the U.S. Attorney nor the VA were advised of the amendment being granted. In fact, on April 4 the U.S. Attorney filed a Memorandum in Opposition to Motion to Amend TRO and furnished it to the plaintiffs' attorney On April 4, the U.S. Attorney and the VA were for the first time furnished a copy of the order.

March 31, 1977 (Thursday)—A representative from the school delivered 43 enrollment certifications from the Fall River campus and 51 enrollment certifications from the New Bedford campus to the regional office in Providence, R.I.

April 1, 1977 (Friday)—The school delivered 23 enrollment certifications from the Hyannis branch to the VA Providence Regional Office.

April 4, 1977 (Monday)—The court ruled that the TRO would not be extended and said it would later set a date for a hearing on the preliminary injunction. The school delivered 60 enrollment certifications from the Worcester branch to the Boston Regional Office. Attached to all of these packages was a mimeographed sheet requesting the VA to process the enrollments in accordance with TRO of March 25. At that time, the VA had no knowledge that the court had ever amended the TRO.

38 U.S.C. 3101(A) (NONASSIGNABILITY)

1. San Francisco (*Peace Officer Training Service*).—In this case, a correspondence school sought to have the court determine that the amendment to 3101(a) effective December 1, 1976, which provides that the sending of a check to the school where the school holds a power of attorney so it can cash the check is tantamount to an assignment, has no retroactive effect prior to December 1, 1976. On March 25, 1977, the court issued an order granting limited injunctive relief by requiring the VA to process applications utilizing powers of attorney and/or school address designations upon proof that said arrangement was entered into prior to December 1, 1976. However, the court also found that the VA did not violate the publication and hearing requirements of the Administrative Procedures Act and the Freedom of Information Act and that the VA was exempt from such provisions. Also the court found that the prospective applications of VA regulations were wholly consistent with the history and purpose of section 3101(a) and that the school did not have any vested security interest in the veterans' benefits. On April 22, 1977, the court issued a preliminary injunction enjoining the VA from enforcing section 3101(a) retroactively and to continue to process enrollments for contracts entered into prior to December1, 1976. (*Peace Officer Training Service College, et al.* v. *Richard L. Roudebush, et al.*, USDC ND Cal., CA C-76-2782-CFP.)

2. Los Angeles (*Los Angeles Community College*).—In this case the Los Angeles Community College which had courses overseas deposited numerous checks and powers of attorneys with the court seeking a determination that they had the right to cash these checks. On February 14, 1977, the court entered an order permitting the College to cash the checks using the powers of attorney and providing further that they could cash all checks for courses which began prior to December 1, 1976, but will conclude shortly thereafter at the end of the term. It was clearly understood that after that point, the College would be subject to the new law. On March 2, 1977, the Solicitor General's Office advised us that they would not appeal this case. On May 2, 1977, the court granted plaintiff's motion for summary judgement. Plaintiff is drawing, but has not yet submitted, a proposed order for the judge. (*Los Angeles Community College* v. *Richard L. Roudebush, et al.*, USDC CD Cal., CA 77-0096-LEW.)

3. Los Angeles (*Barstow Community College*).—On April 25, 1977, a summons and complaint were served on the U.S. Attorney, alleging a cause of action almost identical with the Los Angeles Community College case above. The answer is due June 24, 1977. (*Barstow Community College District, et al.* v. *The Veterans Administration, et al.*, USDC CD Cal., CA 77-1501-R.)

4. WASHINGTON, D.C.—(United Systems). In this case a correspondence school sought to have the court declare that section 3101(a) had no retroactive application. The judge stated that the amendment which provided that sending a check to a school's address coupled with a power of attorney was tantamount to an assignment must be read with the statute prior to its amendment. The statute begins with the words "Payments of benefits due or to become due . . .". The judge said that this was clearly an indication that all assignments were forbidden even before the enactment of the new section and that the law clearly had retroactive effect. Accordingly, the judge entered a favorable decision on January 17, 1977, and the plaintiff filed a notice of dismissal on January 21, 1977. (*United Systems, Inc.,* v. *Richard L. Roudebush, et al.*, USDC D Columbia, CA 76-2203.)

5. New Jersey (*American Training Services*).—A bankruptcy judge in New Jersey also held that 3101(a) clearly had retroactive effect, and issued a decision in favor of the Government. He refused to stay the plaintiff's request pending an appeal because he felt that there was little likelihood of success on the merits. The case was argued on March 29, and a decision on plaintiffs appeal is expected shortly. (*American Training Services, Inc. et al.* v. *VA, et al.*, USDC D New Jersey, No. B-76-1562.)

6. Washington (*Big Bend Community College*).—In this case three schools in the State of Washington, two of which provide overseas PREP training, sought to have 3101(a) declared to have no retroactive effect. A hearing was held on March 21, 1977, and the court has taken the matter under advisement. (*Big Bend Community College, et al.* v. *Richard L. Roudebush, et al.*, USDC ED Wash., CA C-77-46.)

38 U.S.C. 1673 (SECTION 205 PUBLIC LAW 94-502 (85-15 RULE) AND 38 U.S.C. 1789 (SECTION 509(b)(4) PUBLIC LAW 94-502) TWO-YEAR OPERATION RULE

1. SOUTH DAKOTA (National College of Business).—This school sought a temporary restraining order to prevent the Veterans Administration from enforcing the 85-15 and 2-year rule against it. The court has granted a preliminary injunction and all pleadings have been filed. The judge will reach a decision shortly which he has indicated from the bench will be a favorable one to the plaintiff. (*Johnnie L. Francis, et al.*, v. *Richard L. Roudebush, et al.*, USDC D SD WD, CA 76-5085.)

2. MICHIGAN (Detroit College of Business).—As above, the school sought and obtained a TRO which expired on February 28, 1977, and prevented the VA from enforcing the 85-15 and 2-year rules. A hearing on the plaintiff's motion for a preliminary injunction was held on March 21, and on March 28 the court reinstated the TRO. A hearing on the plaintiff's motion to hold the Government in contempt and on the Government's motion to dismiss was held on April 25, 1977. The court has taken the matter under advisement. (*Maurice H. Fielder, et al.* v. *Richard L. Roudebush, et al.*, USDC ED Mich. SD, CA 77-0220.)

3. KENTUCKY (Owensboro Business College).—In an action similar to the above, the plaintiff's motion for a TRO was denied. The answer to the plaintiffs complaint is due April 19, and a hearing on the preliminary injunction has been tentatively scheduled for July 6, 7, or 8, which the judge says is the earliest date he can hear the motion. (*Glen A. Grubs, et al.* v. *Richard L. Roudebush, et al.*, USDC WE Kentucky, CA 77-0016-0.)

4. WISCONSIN (Dodd).—In this case the plaintiffs, which included a college, sought a temporary restraining order to prevent the VA from enforcing the 2-year operation rule. The TRO was denied on March 10, 1977, on the grounds that there was little likelihood of success on the merits. A hearing on the preliminary injunction was held on April 12, 1977. The court has taken the matter under advisement. (*Linda J. Dodd, et al.* v. *Nicholas Rott, et al.*, USDC ,ED Wisconsin, CA 77-C-142.)

5. RHODE ISLAND (Johnson & Wales College).—On March 18, 1977, 14 veterans and a school sought and obtained a TRO to prevent the VA from enforcing the 85-15 rule. The TRO was renewed and extended until April 25, 1977, at which time a hearing was held on the preliminary injunction. The judge requested that the Government provide additional expert witnesses and that the plaintiffs' attorney prepare a new order extending the TRO while the instant proceedings were pending. The judge was notified on May 2 of the 2 persons whom the Government would offer as witnesses, but he has not yet set a date for the hearing. (*Richard Rolle, et al.* v. *Max Cleland, Administrator, Veterans Administration, et al.*, USDC D. Rhode Island, CA 77-0128.)

6. MASSACHUSETTS (Fisher Jr. College).—On March 23, 1977, the court issued a TRO for the benefit of 10 veterans who allegedly were denied admission to the school because the school failed to meet the 85-15 and 2-year rules. On March 25 the school had the TRO amended to include itself. On Thursday, March 31, a representative from the school delivered 43 enrollment certifications from the Fall River campus and 51 enrollment certifications from the New Bedford campus to the regional office in Providence, R.I. On Friday, April 1, the school delivered 23 enrollment certifications from the Hyannis branch to that office. On Monday, April 4, the school delivered 60 enrollment certifications from the Worcester branch to the Boston regional office. Attached to all of these packages was a mimeographed sheet requesting the VA to process the enrollments in accordance with the TRO of March 25th. At that time, the VA had no knowledge that the court had ever amended the TRO. On April 4, 1977, the court decided not to extend the TRO and said it would set a date for a hearing on the preliminary injunction later. The Department of Justice through the U.S. Attorney advised the VA that it was not bound by the amended TRO as it applied to the school inasmuch as no one from either Justice or the VA had ever seen the amended TRO until after it expired. Accordingly, the 117 enrollments sent to Providence were returned to the school without being processed. The 60 delivered to Boston were denied for the term beginning March 31, since the 85–15 rule was not met. (*William E. Chambers, et al.* v. *Max Cleland, Administrator*, USDC D. Mass., CA 77–128–F.)

7. *FLORIDA (Jones College)*.—Six plaintiffs and Jones College sought to enjoin the VA from enforcing the 85–15 and 2-year rules. At a hearing in Tampa, on March 28, the court denied not only the TRO, but the preliminary injunction on the grounds that the amendments to the statutes are rationally related to a legitimate legislative objective, and there is little likelihood of plaintiffs succeeding on the merits of the case. (*Peggy Tuttle, et al.* v. *Max Cleland, Administrator*, USDC MD Florida, CA 77–144–Orl. CIV–R.)

8. *ALABAMA (Alabama Christian College)*.—In an order dated March 31, 1977, the court denied the plaintiffs (2 veterans and the school) application for a TRO because it found that the 85–15 rule is rationally related to a legitimate legislative objective. No date has been set for a hearing on the preliminary injunction. The Government filed a motion for summary judgment on April 20, 1977. (*Charles Bennett Hunter, Jr., et al.* v. *Max Cleland, et al.*, USDC NO, Alabama, CA 77–P–0433–NE.)

9. *WISCONSIN (Milwaukee Stratton College)*.—On April 15, 1977, six veteran-students and the Milwaukee Stratton College sought a preliminary injunction to enjoin the Veterans Administration from enforcing the 85–15 rule. The complaint also challenged the standards of progress requirements set out in section 206 of Public Law 94–502. Judge Gordon said that he would hear no witnesses and would decide the case solely on the pleadings which are due to be filed May 11, 1977. (*Ronald F. Kluth, et al.*, v. *Max Cleland, Administrator, et al.*, USDC ED Wis., CA 77–C–225.)

Mr. MOTTL. Next the Chair will request that Mr. Donald Schwab, Director of the National Legislative Service, Veterans of Foreign Wars be our next witness.

Mr. Schwab, it is nice having you back before the subcommittee once again.

Mr. SCHWAB. Thank you sir. Mr. Chairman and members of the subcommittee, I would first like to—for the record—amend the date of my statement from May 4 to May 11, 1977.

Mr. MOTTL. Without objection it will be so amended.

STATEMENT OF DONALD H. SCWAB, DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. SCHWAB. Thank you for the privilege of presenting to this distinguished subcommittee the views of the Veterans of Foreign Wars of the United States with respect to pending legislation to grant cost-of-living increases to those enrolled in educational and training programs as enunciated in title 38, United States Code.

My name is Donald H. Schwab and my title is Director of the National Legislative Service of the Veterans of Foreign Wars of the United States.

As you are aware, the last cost-of-living increase for those pursuing education and training under the GI bill was granted by Public Law 94–502, the Veterans' Education and Employment Assistance Act of 1976. The percentage of increase was 8 percent and became effective on October 1, 1976.

One of the bills presently before you, H.R. 917, introduced by the ranking minority member of the full committee, Hon. John Paul Hammerschmidt, would grant a 10-percent increase in benefits payable to those undergoing vocational rehabilitation, educational assistance, and apprenticeship or on-the-job training programs.

The second bill, H.R. 2102, introduced by Hon. Ronald M. Mottl, would grant a 5.1-percent cost-of-living increase in the programs, and such amount was included in the full committee recommendation to the House Budget Committee.

In testimony before the full House Veterans' Committee last month our Commander-in-Chief R. D. "Bulldog" Smith pointed out the inadequacies of the administration's proposed budget, including the absence—and I would add parenthetically, at that time—of any funding for cost-of-living increases for those pursuing courses under the GI bill, and recommended at least a 6-percent increase in the upcoming fiscal year.

Our position in this regard was reiterated in testimony before the appropriate subcommittees of both the House and the Senate Appropriations Committees, and is supported by paragraph 11 of the resolve clause of our current Resolution No. 601, entitled "Veterans' Administration Programs," a copy of which is appended to my testimony.

In view of the announced 5.9 percent increase in social security benefits to be effective July 1, our recommendation of at least a 6-percent increase is both realistic and tenable.

The Veterans of Foreign Wars commends this subcommittee for the timeliness of these hearings. We trust legislation to grant this needed cost-of-living increase will be expeditiously advanced so that it may become law by the fall semester.

And I thank you, sir.

Mr. MOTTL. Thank you very much, Mr. Schwab. Is there any question of Mr. Schwab at this time?

[No response.]

Mr. MOTTL. If not, I think your testimony is very concise and direct, and we certainly appreciate it, Mr. Schwab. Thank you very much for testifying before us this morning. We will include in the record VFW Resolution No. 601.

[The resolution follows:]

Resolution No. 601

VETERANS ADMINISTRATION PROGRAMS

WHEREAS, the justification for continuous review and liberal changes up-dating all programs administered by the Veterans Administration is clearly evident; and

WHEREAS, the Veterans Administration has been the sole agency since 1930 dedicated to carrying out veterans programs and benefits approved by Congress; and

WHEREAS, the establishing of the Veterans Administration and subsequent enactment of hard fought for rights and benefits represents the Nation's recognition of its debt to veterans; and

WHEREAS, notwithstanding, there are continuous assaults on the integrity of veterans programs by so called "welfare planners" which recommend that veterans programs be merged with programs of other agencies, legislative proposals in the Congress or Executive Orders or actions; now, therefore

BE IT RESOLVED, by the 77th National Convention of the Veterans of Foreign Wars of the United States, that we seek approval of the following recommendations by changes in legislation as applicable:

1. Authorize presumption of service connection for psychosis and malignancy if manifested within five years following wartime service.

2. Oppose any and all proposals which could be construed as dismembering, dismantling or in any way diminishing the integrity of the programs of veterans' rights and benefits as administered by the Veterans Administration.

3. Oppose judicial review of veterans benefits excluding contractual obligations.

4. Authorize service connection for conditions related to radiation exposure in service regardless of time when disease occurs after separation from service.

5. Oppose setoff of disability compensation or pension in Railroad retirement benefits, or any other federal retirement to which a veteran is entitled.

6. Oppose the irrevocability clause of Federal Employees' Compensation in order to permit an election of the greater benefit between Federal Employees' Compensation and VA.

7. The present rating schedule utilized by the Veterans Administration to remain in effect without change and no revision be made unless it is first submitted to Congress subject to public hearings.

(Continued)

Continued Resolution No. 601

8. To provide additional funds and personnel for the Veterans Administration to insure adequate staffing at all VA facilities and prompt administration of all VA benefits to all veterans.

9. Allow the additional 9 months extension under P. L. 93-508 for post-graduate studies or to whatever extent it is necessary for him to meet his educational objective.

10. Permit veterans to temporarily waive or interrupt their training to conserve entitlement.

11. Provide for a cost of living increase for VA benefits.

Adopted by the 77th National Convention of the Veterans of Foreign Wars of the United States held in New York, New York, August 13 through 20, 1976.

Resolution No. 601

Mr. **Cornell**. Might I observe that we are offering him an occasion for his morning constitutional, coming over here.

Mr. **Mottl**. Thanks a lot, Mr. Schwab.

Mr. **Schwab**. Thank you, Mr. Chairman.

Mr. **Mottl**. The next witness will be Mr. C. A. "Mack" McKinney, staff director, National Capital Office, Noncommissioned Officers Association of Washington.

STATEMENT OF C. A. "MACK" McKINNEY, STAFF DIRECTOR, NATIONAL CAPITAL OFFICE, NONCOMMISSIONED OFFICERS ASSOCIATION ACCOMPANIED BY RICHARD W. JOHNSON, JR., ASSISTANT STAFF DIRECTOR

Mr. **McKinney**. Thank you. Mr. Chairman. May I have the privilege of introducing my colleagues, Mr. Richard W. Johnson, Jr., who is my assistant at the National Capital Office.

We thank you very much for the opportunity to appear today before this distinguished panel, and request that my full statement be placed in the record, and I would like with your permission to offer a few additional remarks.

Mr. **Mottl**. Without objection, your full testimony will be placed in the record. The Chair hearing none——

Mr. **McKinney**. Thank you, Mr. Chairman.

Mr. **Mottl** [continuing]. It will be placed in the record.

[Statement follows:]

THE NON-COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA

NCOA

STATEMENT OF
C. A. "MACK" MCKINNEY
Staff Director, National Capital Office
before the
SUBCOMMITTEE on EDUCATION AND TRAINING
COMMITTEE on VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
FIRST SESSION, 95TH CONGRESS

May 11, 1977

H. R. 917, H. R. 2102
and continuing review of P.L. 94-502

NCO ASSOCIATION (NCOA)
NATIONAL CAPITAL OFFICE
110 MARYLAND AVE., N. E., BOX 43
WASHINGTON, D. C. 20002

NOT FOR PUBLICATION
UNTIL RELEASED BY
COMMITTEE on VETERANS AFFAIRS

NON COMMISSIONED OFFICERS ASSOCIATION of the UNITED STATES OF AMERICA

STRENGTH IN UNITY

MR. CHAIRMAN AND MEMBERS OF THIS DISTINGUISHED PANEL: I am C. A. "Mack" McKinney, Staff Director, National Capital Office, *Non Commissioned Officers Association of the USA (NCOA)*.

My Association represents more than 150,000 veterans of the U.S. Armed Forces. In their behalf, appreciation is extended for allowing me to appear today before this Subcommittee relative to a continuing review of Public Law 94-502 and the bills H.R. 917 and 2102.

The NCOA supports an increase in rates for vocational rehabilitation, educational assistance and special training allowances paid to eligible veterans and persons. As long as cost-of-living increases are with us, the Nation needs to recompute upward the assistance rates received by our deserving veterans.

However, the Association believes that neither H.R. 917 nor 2102 is realistic enough to provide up-to-date cost-of-living hikes for these veterans. H.R. 917 offers an approximate increase of only 5 percent while H.R. 2102 is nearer 10 percent. Based on the fact that the average monthly CPI (Consumer Price Index) for the first quarter of 1977 was 5.9 percent above the average for the first quarter of 1976, the NCOA suggests a bill that provides at least a 6 percent hike. Hopefully this distinguished panel will recommend a like increase.

Now, for a few remarks concerning Public Law 94-502.

It is no secret that NCOA did all it possibly could do to retain wartime GI benefits for future veterans of the All Volunteer Force. In early 1976 testimony before the Senate Committee on Veterans' Affairs, the NCOA warned that terminating education benefits under Chapters 34 and 36, title 38, United States Code, might tend to cut-back badly needed accessions into the U.S. Armed Forces.

Upon realization that GI education benefits would be terminated, regardless of predicted consequences, NCOA and other opposing organizations and groups compromised by accepting and supporting the contributory program now incorporated in Chapter 32, title 38, United States Code.

It is too early to tell if the termination really affected recruitment into the All Volunteer Force. We do know that initial recruiting results aren't too good, but it has been this way since FY 1976.

For example, during that fiscal year the Army fell short 3,300 recruits. In the Transition Quarter (TQ) - July 1 thru September 30, 1976 - it failed to reach its goal by 2,600. For the first quarter, FY 1977, it reported a shortage of 2,900 initial enlistments.

What we do know is that the terminal date set in P.L. 94-502 for GI bill educational assistance is affecting retention. On the exterior, 1977 thru 1989 appears to be a fair and equitable time frame in which those on active duty prior to January 1, 1977, can take advantage of Chapters 34 and 36. But in order to do so, young and educationally-motivated military men and women cannot consider accepting a career in the Armed Forces.

Retention figures are as appalling as those for non-prior service accessions. In the TQ period only 80.8 percent of the Army's objective was attained. Early FY 1977 results indicate only an 83.6 percent attainment. Both shortfalls total a loss in excess of 3,000 individuals.

By adding the four losses noted above it is obvious that the All Volunteer Force is not truly the success, or even near-success, anticipated by Congress when it ended the draft in 1973. Because of its failure, Congress has consistently reduced both active duty and reserve military manpower end strengths for the U.S. Armed Forces. If the military cannot attract non-prior service men and women then it must rely heavily on retaining in-service personnel.

Unfortunately, however, there are no true incentives remaining to entice the young, progressively-motivated male or female to reenlist in the military services. If someone entered the military on or about December 31, 1965, he or she has barely enough time to serve 20 years and hurriedly complete a GI Bill education before the December 31, 1989 deadline. Many would rather not crowd themselves that close.

And there is no reason for that young, first or second termer to stick around for less than 20 years. Unlike the federal retirement system, enlisted military personnel build no equity into their retirement fund. Should they voluntarily or involuntarily leave the military service before completing 20 years of active duty there are no monetary separation awards.

Recently the House voted to provide special bonuses to encourage reenlistments in the Guard and Reserve. Both components are suffering shortfalls in excess of 80,000.

Yet, Congress has done little if anything to encourage enlistments and retention in the regular establishment.

By amending P.L. 94-502, so as to change the terminal date from December 31, 1989 to December 31, 2000, Congress will provide some encouragement to career oriented service members to remain in the military and still be eligible for veterans' education benefits later in life.

As a point of interest, the younger men who participated in the Mayaquez incident do not have sufficient time to serve a career in the military and take advantage of the assistance offered under Chapters 34 or 36. The same might well apply to some who participated in the Vietnam Tet Offensive of 1968.

The NCOA urges this panel to adopt the amendment proposed herein.

Thank you.

Mr. McKinney. Our statement also is supported by the congressionally chartered Marine Corps League, and I have been requested by Mr. Edward Schramm, national commandant of the Marine Corps League, to also testify in his behalf.

Mr. Mottl. Fine.

Mr. McKinney. Thank you, sir.

The Noncommissioned Officers Association urges a 6-percent increase in the rates now under consideration by this panel, basically for the same reasons that Mr. Schwab offered in behalf of the Veterans of Foreign Wars.

One thing we would like to do, in a review of Public Law 94–502, is to ask this panel to consider changing the terminal date of the GI education benefits under chapters 34 and 36 of title 38. The reason we ask this is simply because our armed services today, Mr. Chairman, are suffering a shortfall, not only in initial enlistments, but in retention.

For example, in the transition quarter, only 80.8 percent of the Army's objective was obtained in retention. In early fiscal year 1977, results indicate that only 83.6 percent will be attained. Both of these shortfalls total a loss in excess of 3,000 individuals for the U.S. Army.

Now this is about one-fifth of a division, but if we relate this also to the Marine Corps and to the U.S. Navy, on retention factors alone, we have a serious shortfall.

It appears that I am here preaching to the Armed Services Committee, and I am sorry for that, but we do know that the terminal date set by Public Law 94–502 for the GI bill educational assistance is affecting retention in our armed services, and because we are having greater difficulty in the services bringing in nonprior enlistments, we have to rely our Nation's Armed Forces—have to rely on these people who are already in to maintain some stability in the Armed Forces.

Now, in order for a young man to stay in the military and make a career out of the military services, and finish up his GI education prior to 1989, he must have enlisted into the armed services prior to December 31, 1965.

This precludes the fact that the younger men who participated in the *Mayaguez* incident, for example, would not be able to stay in the military and make a career of it and finish their education under chapter 34 and 36. This also will apply to some of those who participated in the Vietnam Tet offensive.

We believe this much, Mr. Chairman, that as long as we have personnel serving overseas in defense of this Nation we should look upon those people as fully qualified veterans and we urge this panel to take a strong, hard look at that terminal date, and possibly change it to the year 2000.

Thank you, sir, and I am ready to answer any questions.

Mr. Mottl. Thank you, Mr. McKinney. I am sure that you realize that the active duty servicemen do qualify for the GI bill assistance while still on active duty. This provision was written in the law when it was enacted in 1966 at the express request of the Department of Defense.

In other words, it is not necessary for an active duty serviceman to leave the Armed Forces in order to qualify for the GI bill assistance.

In addition, many active duty servicemen take correspondence type courses under the GI bill. I am mentioning this because your statement might leave the impression that the termination of the GI bill benefits is forcing the active duty serviceman to leave the Armed Forces to be eligible for GI bill benefits.

Mr. McKinney. This is, in some cases, but not in every case. I spent a career in the military, and I started three times to go to night school while I was in the service. And I had to stop each time and did not complete them—and I'm not alone in this, Mr. Chairman, there were many of us—because of changes in training schedules or perhaps permanent changes of station.

And it is difficult in many cases—particularly depending upon the assignment that you have in military service—to try to obtain a qualified education under the GI bill.

I am saying that this terminal date will affect certain motivated individuals, and I do not think it would cost the Government too much money to extend that terminal period so that those who did not have this—did not have the opportunity of going to school while in the service, would have it later on after they are discharged, provided they want to make a career of the service.

Mr. Mottl. Thank you, Mr. McKinney. Any questions? Yes, the gentleman from Wisconsin, Mr. Cornell.

Mr. Cornell. I would presume, Mr. McKinney, however, that you are not opposed to ending GI benefits, as we did in last year's legislation?

Mr. McKinney. Oh, yes sir. I was very much opposed to ending them.

Mr. Cornell. I am happy to hear that. So was I, but in vain. How do you feel about the program for education provided in the current legislation, which, as I am sure you are aware, was a kind of a compromise, that is, requiring soldiers to make contributions while they are in the service? Do you think that is going to help attract young men and women into the service, or do you think the earlier GI bill was a greater attraction?

Mr. McKinney. Well, I think the GI bill as it was, or still is in effect for certain people, is the best thing to attract people into the service.

The Army is pushing very hard on the VEAP, and they are doing a good job of it, I suppose. Of course, having been a drill sergeant one time myself, and having had some young recruits under me, I am not too sure that everything I said and offered to them was taken as an offer, but rather as an order.

I am not saying they are ordered to go into this program, but certainly I think that a youngster should come out of basic training before we even place this on him as a request, "Would you like to participate in the program?"

The Army's doing a good job of it. The Marine Corps, the Navy and the Air Force, as I understand, have very few people, if any. In fact, I think there was an article in the Air Force Times, May 9th of 1977. The Marines signed up 56 persons only, about 2 percent. The Army has signed up about 30 percent of their people, and the Navy and Air Force had no enrollments in January or February.

Now one of the attractions, I think, or one of the points that were brought out when this VEAP was introduced in the Senate, was the fact that the youngsters today are making more money and should pay their own way. However, we do know today that in comparison to 1971, for example, our recruits' pay is less, and is worth less than it was in 1971, and this is because we have had real, not conceived, erosions of benefits in the military service, many of them affecting pay and allowances.

One time the distinguished gentleman from Louisiana, the retired Congressman from Louisiana, Mr. F. Edward Hébert, really got on me because I stated that I was a little upset about erosions in benefits, and he said, "Well you forget what we have done for the service, Mr. McKinney," and I said, "No, sir, I have not."

And that is my problem. I do not want us to go back to the periods of time when our young men lived in poverty in the armed services.

Mr. CORNELL. Well, I guess in reference to the GI educational benefits, the only satisfaction you and I have is that we are members of the enlightened minority.

Mr. MCKINNEY. Yes, sir.

Mr. CORNELL. Thank you.

Mr. MOTTL. Thank you, Father Cornell. Any other questions of Mr. McKinney?

[No response.]

Mr. MOTTL. If not, thank you very much for testifying this morning.

Mr. MCKINNEY. Thank you, Mr. Chairman, gentlemen. I appreciate it.

Mr. MOTTL. The subcommittee is closely following the implementation of Chapter 32, title 38, United States Code, the Post Vietnam Era Educational Assistance Act. In this regard, I have before me a copy of a letter and brochure indicating one way the Department of the Army is bringing the chapter 32 program to the attention of high school graduates by graphically demonstrating how the program is carried out. Without objection, I will insert this information in the record at this point.

[The information follows:]

DEPARTMENT OF THE ARMY • HEADQUARTERS • U.S. ARMY RECRUITING COMMAND • FORT SHERIDAN, ILLINOIS 60037

Dear Educator:

How many seniors do you know who have the ability to continue their education after graduation, but just don't have the money? If your answer is even one student, here's great news.

Under the new Veterans' Educational Assistance Program, every dollar your students save towards continuing their education will be matched $2 for $1!

The enclosed "folder" will show you how easy it is for your students to accumulate up to $8,100 in their own, personal educational fund during a 36-month enlistment in the Army. This means they'll not only leave the Army with excellent job training and experience, they'll also have a great start at furthering their education.

And your students can start a college or vocational-technical school program when they enlist and sign up for Project AHEAD (Army Help for Education And Development). While they're in the Army, they can take courses taught by accredited institutions, most of them right on post, with the Army paying up to 75% of the tuition. In addition, men and women receive counseling to help them achieve their educational goals by qualified guidance personnel at the Army Education Centers at every installation.

The Veterans' Educational Assistance Program and Project AHEAD are just two important reasons for telling your students about the Army. Don't forget some of the others. They'll be able to choose their job-training program from hundreds of occupational choices. They could have the opportunity to live and work in Europe. Plus good pay right from the start of their enlistment—$374 a month—and meals, housing, medical and dental care, and 30-days paid vacation each year.

The cost of education is going up every year. So read over the enclosed information and find out how you can help your students go off to college or vocational-technical school with $8,100 in the bank and a head start on their education.

Then contact your local Army representative for more details on the new Veterans' Educational Assistance Program and other Army opportunities. He's listed in the Yellow Pages under "Recruiting."

Yours truly,

Kenneth M. Miller
Colonel, US Army

Veterans'
Educational Assistance
Savings Passbook

YOUR NAME ______________________

Month/Year	Total Savings Amount	Total Matching Contribution	Grand Total
JAN 1977	$75.00	$150.00	$225.00
2 FEB 1977	$150.00	$300.00	$450.00
3 MAR 1977	$225.00	$450.00	$675.00
4 APR 1977	$300.00	$600.00	$900.00
5 MAY 1977	$375.00	$750.00	$1,125.00
6 DEC 1979	$2,700.00	$5,400.00	$8,100.00

UNDER THE NEW VETERANS' EDUCATIONAL ASSISTANCE PROGRAM, YOU COULD COME OUT WITH $8,100 FOR SCHOOL.

Here's how it works. A soldier can save from $50 to $75 a month in an education fund. (In the case shown above, the maximum $75 a month was used.)

FOR EVERY DOLLAR YOU PUT IN, TWO WILL BE ADDED.

The third column above shows the matching contribution, which is twice what you put in. The last column shows your monthly grand total.

HOW MUCH YOU WANT TO SAVE EACH MONTH IS UP TO YOU.

You may choose to save between the minimum of $50 a month and the maximum of $75 a month, in $5 increments for a total of 36 months. If you decided to save $60 a month, for example, you'll come out with $6,480. $65 a month will net $7,020.

YOU CAN ALSO DECIDE HOW LONG YOU WANT TO SAVE.

You may want to serve a while before you take advantage of this program. If so, the only minimum period of participation is 12 months. Obviously, the longer you participate, the more money you'll get back.

WITH ARMY PAY AND BENEFITS, IT'S THAT MUCH EASIER TO SAVE.

While you're saving for your educational future, you'll also be earning a good salary. Plus you'll receive meals, housing, medical and dental care. So that the money you would normally have to put out for these essentials can be put in the bank.

AND DON'T FORGET THE MANY EDUCATIONAL OPPORTUNITIES THAT ARE YOURS WHILE SERVING.

In addition to this new savings program which helps you when you're out, there are a number of in-service ways you can earn college or vocational-technical credits. Under Project AHEAD, for example, you can enlist in the Army and start a college or vocational-technical program at the same time. This way, you can be working towards your degree with one of over 1400 participating institutions. And the Army will pay up to 75% of the tuition costs for approved courses taught on post or at nearby schools. But remember, you'll be a soldier first, and a student second.

HERE'S HOW YOU COLLECT WHEN YOUR ENLISTMENT'S UP.

Let's say you decided to put away $75 a month. With your savings matched 2 for 1, you'll accumulate $8,100 over a 36 month enlistment. This will be paid to you in monthly installments of $225 for each month of college or vocational-technical school completed. If you decide not to continue your schooling after separation from the Army, you will get back all the money you put in. But not the matching funds. They will be paid only if used towards completing up to four years of college or vocational-technical school.

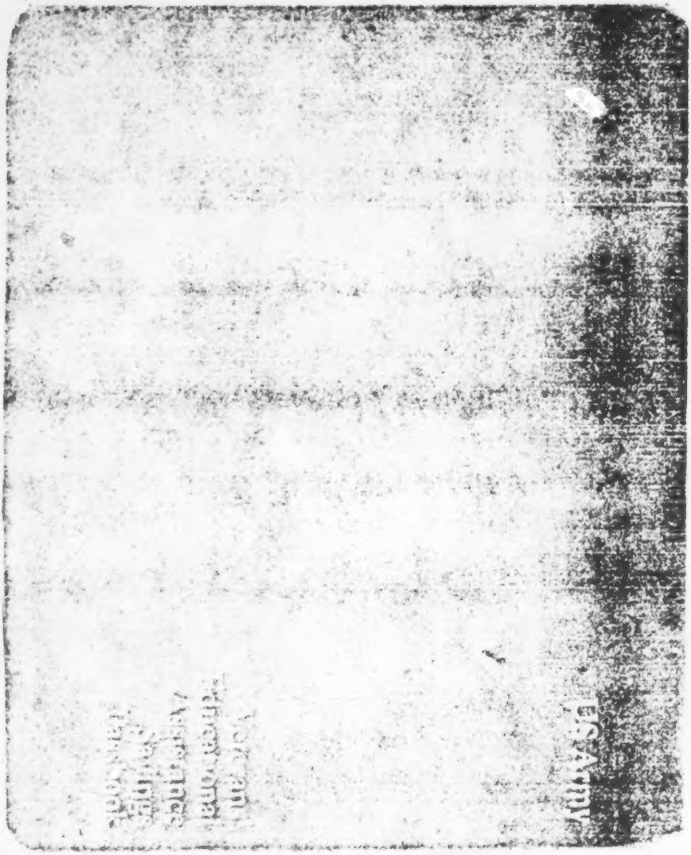
A WORD ABOUT RESTRICTIONS.

The time allowed for the use of your funds is ample—10 years after satisfactory completion of Army service.

The choice of the institution you attend is yours, provided it is approved by the Veterans Administration.

WHAT TO DO NEXT.

For more information about the new Veterans' Educational Assistance Program, or about Army benefits in general, call your nearest Army Representative. He's listed in the Yellow Pages of your phone book under "Recruiting."


U.S. Army
Veterans'
Educational
Assistance
Savings
Passbook

Mr. MOTTL. Our last witness will be Ms. Karen A. Meyer, administrator, Monmouth Airlines, Farmingdale, N.J.

Ms. Meyer.

STATEMENT OF K. A. MEYER, ADMINISTRATOR, MONMOUTH AIRLINE FLIGHT TRAINING CENTER, FARMINGDALE, N.J.

Ms. MEYER. First, I would like to apologize for the rought draft of the statement that you just received this morning, but we were a little pressed for time to get a statement copy to you finished before today.

Mr. Chairman, members of the committee, I deeply appreciate the opportunity to appear before this committee to comment on the efforts of Public Law 94–502, particularly as regards flight training.

I have, over the past few months, discussed in depth Public Law 94–502 with many veterans programs administators throughout the State of New Jersey, and from across the Nation. As a member of the National Association of Veterans Program Administrators and the Aircraft Owners and Pilots Association, I have developed a very accurate picture of what Public Law 94–502 is doing to our Nation's veterans enrolled in flight training programs.

The picture nationwide is negative, yet the needs in employment for pilots and supportive personnel are emphatically positive.

We have discriminated against the flight training veteran in the new law by denying him the same increase in benefits afforded veterans for any other course of study.

We have maligned the value of the program and the veterans' intent to pursue a true vocational objective based on abuses which the system itself allowed 20 years ago.

That system has most definitely been improved. The Veterans Administration has done an admirable job of restructuring the system to eliminate these abuses. First, a veteran must make a $1,500 investment of his own money for a private license before he can be accepted into the program—a requirement unheard of in any other form of training. Second, he must pursue the program on a time schedule designed for efficiency and must meet standards of progress which preclude the casual or avocational flyer.

Indeed, the restructuring of FAA standards for approved schools has in itself eliminated many fly-by-night operations and left us with a viable group of reputable flight schools who produce highly employable graduates on a consistent basis.

Third, the school itself must produce evidence of employment for these graduates which substantiates the validity of the program. This, gentlemen, has most certainly been a positive factor for the program.

The results of the New Jersey survey alone across the board show 94-percent employment for graduates in the field.

Less than 2 percent of the flight training courses available to veterans in New Jersey did not meet the 50-percent employment requirements. Certainly these figures tell a significantly different story for the legitimacy of our program.

At this time, nonimmigration students come to American to receive flight training from all over the world. We have them right here in New Jersey. They come here because they can get jobs after graduation on a study basis and return to their native countries as experienced pilots. This is an obvious contradiction of the VA position that no jobs are available.

Industry-wide publications listing job opportunities for the past 24 months have shown consistently 2.5 positions available for every position-wanted ad.

While the number of airports open for public use has remained fairly constant over the past three decades, the number of aircraft based at and operating out of these airports has doubled in the last 10 years, and we have that from Frank Gerard, the director of New Jersey State Division of Aeronautics.

In 10 years, general aviation aircraft deliveries have gone from 514 million to 123 million, according to the General Aviation Manufacturers Association.

Student starts have increased 13 percent in the past 10 years despite an 18-month general recession in the industry. We need instructors to do that.

Total aircraft operations have increased in the past 10 years by 44 percent. Eighty percent of these operations were attributable to general aviation aircraft.

The Department of Labor tells us that the rapid development of air transportation has increased the mobility of the population and created many thousands of job opportunities in the civil aviation industry. In 1976 over 450,000 people were employed in a variety of interesting and responsible occupations in the industry. Airlines account for more than three times as much intercity passenger travel as buses and railroads combined.

The total number of workers in civil aviation occupations is expected to increase about as fast as the average for all occupations through the mid-1980's. About 79,000 civilian pilots worked full time in 1975.

Employment of pilots is expected to increase faster than the average for all occupations through the mid-1980's. Earnings of pilots and copilots are among the highest in the Nation. Annual earnings average $16,602 for the entire industry, about twice the average for all nonsupervisory workers in private industry, except farming. And, most important of all, the Department of Labor reminds us there are five ground support personnel for each pilot in aviation in such capacities as air traffic controllers, aircraft mechanics, flight attendants, reservation, ticket and passenger agents.

The 1976 Directory of Helicopter Operators, published by Aerospace Industries Association, shows us an 18.4-percent increase in the number of helicopters operated in the United States, Canada, and Puerto Rico over 1975, and an increase of 29.9 percent over 1975 in the number of corporation executive operating helicopters. A new high of 1,082 corporate executives operated 1,392 helicopters. This represents a 31.8-percent increase in the number of helicopters owned. There also was a 16.9-percent increase in the number of commercial operators, and a 10.8-percent increase in the number of commercial helicopters compared to 1975.

The Occupational Outlook Handbook in Brief, 1976–77 Edition, Bureau of Labor Statistics, predicts 20,000 new job openings expected per year for the next 9 years in all types of aviation employment.

These are facts which cannot be ignored if equitable treatment for these veterans is to be a reality.

The VA in its efforts to curb abuses has at times unwittingly made effective flight training an impossibility.

We are a unique and complicated form of education, one which few people in the VA understand or appreciate.

Their perception of the needs of the veteran in flight training is very poor. This has caused great hardship for the veteran where administrative implementation of the law is interpreted into DVB circulars sent to each VARO.

At the present time, for instance, veterans enrolled in school programs approved by the FAA in excess of required minimums cannot be paid for the entire course by the VA.

So it is impossible to meet the letter of the law; either the student cannot complete the FAA approved school course—which the agencies say he must follow—or he is not being paid 90-percent of the approved school course cost—which is in direct opposition to the law.

The FAA minimums for any particular course are just that—the minimum acceptable training, not to be interpreted as the desirable amount to be given for a particular course. Effective flight training is the result of experienced educators in the field developing programs which meet FAA minimums, while providing adequate training in excess of those minimums so that the average student can successfully complete the program.

At the present time, effective flight training is being greatly hampered by this administrative interpretation of the law.

It has been suggested by the VA that flight training is often pursued in the evenings or weekends because it is avocational. This is a very good example of misinterpretation of the situation in flight training.

The flight training student is subjected to "winds and weather," hardly a classroom situation allowing a constant 40-hour-per-week pursuit of his goal. The student receives no subsistence allowance during this period, only direct expenses incurred by his training are reimbursed. Therefore, the student must substitute some type of temporary employment while preparing for his career in aviation.

The VA has also suggested that the employment survey, conducted under their direction, is not accurate in that it does not account for the student who does not complete the course. This is also a distorted view.

Many students who are listed as terminating training are, in fact, only changing flight schools and go right on pursuing their goals.

We are sensitive to the changing needs of these veterans and we are setting new goals to meet them.

The industry has proved many times over the validity of the program and the strength of the future of aviation.

I feel strongly that the intent of Public Law 94–502 was good and just. We do need to prevent abuses, but we can accomplish that goal without the obstacles which we have placed in the way.

The recommendations I would like to submit for your consideration are as follows:

That the VA implement a panel of industry leaders and FAA officials for consultations regarding effective flight training in realistic terms.

That we recognize that a 10-year delimiting date is no longer a valid measure for useful educational benefits to the veteran.

We increase the reporting fee to a realistic figure which makes it feasible for proprietary schools to cope with the paperwork demands Public Law 94–502 creates.

We assure standardization of the implementation of veterans legislation. The present situation finds different VA regional offices with significant differences of interpretation of the law, creating a situation of unequal rights throughout the Nation.

We increase flight training benefits to the same level as all veteran forms of education and recognize that this discrimination is uncalled for and arbitrary and that we increase flight training on an equal basis for all cost-of-living increase in the future.

In closing, I would like to commend you for opening Public Law 94–502 to public hearings. This in itself is evidence of your willingness. to look closely at the effects and implications of a piece of legislation that was passed after an 11-hour deliberation and without close scrutiny in this regard.

Thank you. I would like to answer any questions you might have.

Mr. **Mottl**. Thank you very much for your very comprehensive testimony, Miss Meyer. Are there any questions?

Mr. **Allen**. Yes, I have one, Mr. Chairman.

Mr. **Mottl**. My colleague from Tennessee, Mr. Allen.

Mr. **Allen**. Miss Meyer, I notice that you are with the Monmouth Air Lines in New Jersey?

Ms. **Meyer**. Yes, I am.

Mr. **Allen**. In what capacity?

Ms. **Meyer**. I am the administrator of the flight school. It is a public stock corporation, a commuter airline with a flight school.

Mr. **Allen**. Is that the primary function of this company, to be a flight school?

Ms. **Meyer**. Of my subsidiary, that is the only function. I am part of the major corporation.

Mr. **Allen**. You are what?

Ms. **Meyer**. We are *only* part of the major corporation. Our subsidiary just does flight training.

Mr. **Allen**. And how large is that subsidiary?

Ms. **Meyer**. Student population, about 150 students.

Mr. **Allen**. About 150 students. Of that number, how many are veterans?

Ms. **Meyer**. Approximately 65.

Mr. **Allen**. Sixty-five.

Ms. **Meyer**. We have about 700 veterans in flight training in New Jersey right now, and I keep quoting New Jersey, because it is really the thing I am most familiar with.

Mr. **Allen**. I can understand that. And you feel that we are not turning out enough trained pilots today to meet the future needs in the airline industry?

Ms. **Meyer**. No, I think we are turning them out now, but we are moving towards not turning them out, and the demand will be there, and I think we are very close to not being able to consider those needs.

Mr. Allen. Would you like to comment, or undertake to rationalize in your own mind, the attitude expressed by Mr. Thornton toward flight training and education for veterans.

Ms. Meyer. Yes; I am well aware of Mr. Thornton's position, and I know he feels that he has a very good basis for that opinion. Obviously I don't. I think that he is removed from the area of today's concern. I think that the scandals and the problems that were inherent in the system—that many years ago, when many VO officials of today who were in charge of the VA in very responsible positions, they were there then, and they remember it, and it hurt them. They are not out in the field. There are thousands of pilots looking for jobs. They don't tell you about the ones that find them.

I know that Mr. Thornton feels he has a basis for it. I feel that the VA has ignored the results of the employment survey they wished to have—they had conducted, and were sent back to their offices, and they felt that in some instances the method that they used probably didn't give them the best results, and it sometimes suggests that those best results weren't best because they weren't the ones they wanted.

Mr. Allen. Ms. Meyer, tell me this, in your opinion how many of the—I believe you said 65 veterans are now enrolled in your school—are there with the intent of making aviation their full time vocation? How many do you think are in there just because they would like to learn to fly, as a sort of a sideline, and maybe buy a plane someday of their own and be equipped to get a license so that they can fly?

Ms. Meyer. I would suggest we are very fortunate. Approximately 90 percent, I would say, have every intention of being employed in aviation. We employ a lot of them in our company when we are through with them. We place them in jobs when we are done with them. We have access to a lot of positions. We have access to both full- and part-time positions, if we cannot get them started in full time right away.

We see very low incidence of flying doctor, or flying lawyer or whatever, and it is mostly because we discourage and turn them away, and because the Newark VARO has been very cooperative in trying to help provide counseling to these people who want to give up their $100,000 a year jobs to become pilots, suddenly. We have had some success in eliminating those people.

Mr. Mottl. Can I offer the question, how many of these potential pilots were going to have jobs flying the junketing Congressmen around?

[Laughter.]

Mr. Allen. Well, this Congressman, I can guarantee you, they will never fly, because I will fly only commercial airlines, and I promise you that.

Your school has furnished how many aviators for major airlines?

Ms. Meyer. For major airlines?

Mr. Allen. Yes. Do they have sufficient training to apply for a job with a major airline?

Ms. Meyer. No, but that is not where the bulk of the jobs are available in aviation. That is a very small percentage of the jobs available in aviation.

The broad spectrum of activity is in general aviation aircraft at the regionals, commuters. In 2 years I would suggest that the major airlines alone, a good dozen people have found employment, or improved their job status on that level.

I have been in this business for 7 years, and in 7 years I can very happily say that I have placed lots of people who have moved on to major airlines, regionals—Rio in Texas, for one, commuters, corporate, charter outfits—I can name by the dozen. There are jobs, and we are putting pilots in them and they are out there.

There are many ground personnel who have jobs because of them.

Mr. ALLEN. Are you suggesting that these charter flights overseas will accept aviators with less training than the commercial airlines will accept?

Ms. MEYER. I am not pinpointing them, but certainly the commuter level, the flight schools that we fill, the charter outfits that are entering interstate, all employ pilots and pay them very good salaries.

Mr. ALLEN. Thank you so much.

Ms. MEYER. Thank you.

Mr. MOTTL. Thank you, Mr. Allen. Any questions from the gentleman from North Carolina?

Mr. HEFNER. Thank you, Mr. Chairman. You have been with the school for 7 years. What amount of time does it take from the time a student enrolls until he becomes a qualified licensed pilot that could be certified to fly for a private corporation or airlines or whatever?

Ms. MEYER. On commuter airline and instructing level, where most everyone starts, the average person will come in to me and pursue his flight training on a part-time basis because of winds and weather and having to eat on the side, probably in a 2-year period.

If he goes at it full time I have put people through the program in under 1 year, and made them employable. They will have commercial, multiengine, and instrument ratings, and usually an instructor's rating and/or an instrument instructor's rating.

The most common place to put them is into flight training or commuter airline operations. We are better off to put them in that position and let them work up to a better charter outfit than they might find immediately.

Mr. HEFNER. How many people today at your school, this moment, from 9:00 to 5:00 this afternoon, would be taking instruction or be working in it?.

Ms. MEYER. From 9:00 to 5:00 today?

Mr. HEFNER. Actual students.

Ms. MEYER. I would suggest about 16 to 18 students.

Mr. HEFNER. When will the rest of them be there? At night and on weekends?

Ms. MEYER. On the weekends, in the evenings, on other days.

Mr. HEFNER. What time are your classes in the evenings?

Ms. MEYER. Our evening classes start at approximately 7:00. They are just the formal ground school. All flight training is done on an individual basis with the exception of the formal classroom ground. That is run in the evening. We run one during the day, usually every 2 months.

Mr. Hefner. What is your percentage of attendance for your GI's that are under the program on the GI bill? What is their attendance record? Is it very good, or average?

Ms. Meyer. They all come in on a voluntary basis. We are not like some major institutions, and that is—they are the minority. In the average reputable flight school that is giving veterans' training, the veteran is coming in to you in his extra hours. We have people who are still in the service at Fort Monmouth that we see very regularly.

They try to sandwich us in between all of their other duties and responsibilities. They will come—what we call regular attendance is to come and fly—it has nothing to do with the ground—about once a week to twice a week. It depends on the course they are in. Some courses require much greater concentration than others, and you have to pocket the time.

Mr. Hefner. The 7 years you have been there, the veterans you have had, how many of those finished your course and have gone into jobs actually as pilots?

Ms. Meyer. In 7 years? That's a toughie.

Mr. Hefner. Well, I am assuming you would have some records simply because you deal so much with veterans and it is a portion of your income for your school, about a third, or maybe more.

Ms. Meyer. Yes, but I would have to get that information and assemble it and send it to you. I can do it in 2-year blocks, because we run them in 2-year blocks.

Mr. Hefner. OK, give me the last 2 years, the last 4 years.

Ms. Meyer. The last 2 years of the completed graduates, approximately 75 percent—across the board.

Mr. Hefner. No, I am not interested across the board. I am interested in the veterans because that is what we are——

Ms. Meyer. No, no. Veterans.

Mr. Hefner. OK.

Ms. Meyer. Oh, just veterans, are all gainfully employed in aviation.

Mr. Hefner. All veterans that have finished your school in the last 2 years are gainfully employed.

Ms. Meyer. Seventy-five percent were confirmed as gainfully employed in aviation.

Mr. Hefner. And when they finish your school, you recommend them, or they can pass tests to work as pilots for private corporations or commuter airlines—I do realize that there is for commercial airlines such as Eastern and TWA you have to have the hours on——

Ms. Meyer. Yes, you have to have quite a bit of experience, but yes, they do. We employ many of them on Monmouth Airlines.

Mr. Hefner. Are some of them employed as instructors?

Ms. Meyer. Some are employed as instructors. There is a very big market for good instructors all over the country.

Mr. Hefner. Now you stated here that many students are listed as terminating training, but are in fact changing their flight schools. What percentage of your students do you lose each year, each 2-year period, especially the GI's?

Ms. Meyer. That we know of that terminate training totally?

Mr. Hefner. Yes.

Ms. MEYER. It varies from course to course. In the commercial course I would suggest—which is where they start—maybe 10 percent—6, 8, 10 percent. The instrument course is higher. It is hard, and new FAA regulations have incorporated that into the commercial, so you are going to see a change in that status, but I would suggest that is more like 20 percent.

In the instructor ratings and multiengine ratings we lose almost no one. They are not that demanding.

Mr. HEFNER. In essence, it is true that most of your instruction and most of your work involvement is on evenings and weekends.

Ms. MEYER. No.

Mr. HEFNER. I am not saying that this is a weekend operation, but basically—because you say today you may have 10 to 15 people that are involved today.

Ms. MEYER. Right. But I would——

Mr. HEFNER. And those—probably none of those are veterans that are involved today.

Ms. MEYER. Oh yes, quite a few of them will be. I am sure they are waiting for me, too. Most of our veterans are with us during the week at varying times, either early morning, late evening. We are unique for our geographic area. We have a very steady population. We are situated at a very good airport, very good facilities, so we hold a very steady student population year round.

A lot of the schools are not that lucky. A lot of the schools are not as active during the week as we are. It really has more to do with the type of people we have geographically to deal with, and their ability to come in at odd times and different hours.

Mr. HEFNER. I won't belabor the point, Mr. Chairman, but these people that finish these courses that are really interested in the final—they—when they enter the private sector, would you not say that they would be compensated above the average student that— other than the medical profession or the legal profession, that this is a lucrative field, if they can find positions?

Ms. MEYER. It is a very lucrative field, if you have the patience to develop the position. He may spend some time building up something really lucrative, but the draw is there. It will always have that romance—great flight—and people pursue it to almost any personal loss that they have to. Once they are drawn to flight, and they want to fly, you cannot dissuade them.

Mr. HEFNER. If they pursue it for 2 years and work very hard to become competent, for the investment in time and money it is a very lucrative potential there for them, more so than the other fields.

Thank you. Thank you, Mr. Chairman.

Mr. MOTTL. Thank you, Mr. Hefner. The gentleman from Tennessee has additional questions?

Mr. ALLEN. One question. What does it cost to get through your course, and get your minimum license or certification?

Ms. MEYER. OK. The average person would spend approximately $5,000 to $6,000 to get the licenses that he needs. A lot of these people are——

Mr. ALLEN. Does that include the use of the plane too?

Ms. Meyer. Oh yes. A lot of these people are now incorporating this in their college education. We are right now working on as are many of the schools, offering these programs through the various colleges in the area, in their individual areas, because we feel that this is better for any student, particularly the veteran, and allow him to save some money in the end. He is going to get college credit for the licenses he holds and the efforts he has made to obtain these licenses, and it is becoming very widely recognized.

Mr. Allen. How much per hour is he charged in using the plane?

Ms. Meyer. Geographically it changes and with equipment it changes. We are an average school, and it runs with a Cherokee 140 approximately $24 per hour.

Mr. Allen. I see. Thank you, ma'am.

Mr. Mottl. Thank you very much, Miss Meyer. We certainly appreciate your testimony and your answers to our questions.

Ms. Meyer .Thank you.

Mr. Mottl. For the record, the statement by John L. Baker, president of Aircraft Owners & Pilots Association, could not be with us, but he would like to have his testimony submitted to the record. Without objection it will be submitted into the record.

[Statement follows:]

AIRCRAFT OWNERS AND PILOTS ASSOCIATION
P.O. Box 5800, Washington, D.C. 20014 / TEL (301) 654-0500 / TELEX 89-8468

STATEMENT OF JOHN L. BAKER
PRESIDENT
AIRCRAFT OWNERS AND PILOTS ASSOCIATION (AOPA)

Prepared for Hearings May 11, 1977, before

SUBCOMMITTEE ON EDUCATION AND TRAINING
COMMITTEE ON VETERANS' AFFAIRS
U. S. HOUSE OF REPRESENTATIVES

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to present views in behalf of AOPA's more than 200,000 members, who employ private aircraft for personal and business purposes, respecting the provision of flight training for veterans.

It has been and continues to be our contention that so long as the Federal Government provides for veterans a program of education, vocational rehabilitation and readjustment of servicemen to civil life, that the option of flight training should be among those educational courses permitted. Despite occasional abuses of this opportunity, as of others in the program, we are aware of no evidence that the level of abuses in flight training exceeds those of other options in the program.

We also remain convinced that there is no more justification for requiring some set percentage of graduates to become professional pilots than for a similar requirement that those who take English, mathematics or some other such course to earn their livelihoods solely through those disciplines. Countless numbers of our members employ their flying skills to enhance their earning abilities and productivity, just as they use the ability to communicate and figure to sell or maintain their ideas, products and abilities in other income-producing pursuits.

With respect to the proposals before you to increase the value of the entitlements, we urge that the entitlement for flight training be brought up to full comparability with that allowed presently for other types of education and training and that any increase allowed this year also be accorded to flight training. Inflation and increases in the cost of operation have impacted on aviation training establishments just as they have on other educational institutions.

We also urge that you instruct the Veterans Administration not to override the expertise of the Federal Aviation Administration in matters relating to the composition and conduct of flight training courses. VA efforts of this kind have created unwarranted problems for flight training institutions.

We appreciate your consideration of these views.

Mr. MOTTL. And I want to apologize to our dear friend of the committee, Mr. Larry Roffee, who will be our last witness. We forgot about him and want to apologize for that, so Larry, would you come forward? He is the legislative director of the Paralyzed Veterans of America.

And again, I apologize, Larry.

STATEMENT OF LAWRENCE W. ROFFEE, JR., LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. ROFFEE. Thank you, Mr. Chairman. We certainly accept your apologies.

Mr. MOTTL. Thank you.

Mr. ROFFEE. Mr. Chairman, in the interests of time I would just like to ask that my prepared statement be submitted for the record.

Mr. MOTTL. Yes; without objection they will be submitted into the record. Hearing none, they are submitted.

[Statement follows:]

STATEMENT OF LAWRENCE W. ROFFEE, JR., LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. Chairman, distinguished members of the Subcommittee on Education and Training, it is an honor to appear before you this morning to present the position of the Paralyzed Veterans of America on Bills H.R. 917 and H.R. 2102.

As I am sure you are aware, H.R. 917 and H.R. 2102 provide, respectively, a 5-percent and a 10-percent cost-of-living increase in the vocational rehabilitation and educational assistance programs of chapters 31, 34 and 35 of title 38, United States Code.

It is obvious that a cost-of-living increase in these rehabilitation nad education benefits is necessary. Public Law 94–502, the Veterans' Education and Employment Assistance Act of 1976, provided an increase of 8 percent in these benefits. This increase became effective on October 1, 1976, and was the first increase in GI Bill benefits since September 1, 1974, when the provision in the Vietnam Era Veterans' Readjustment Act (Public Law 93–508) became effective. From that time through October 1, 1976, the consumer price index increased by 13.6 percent. However, because of budgetary constraints Congress was only able to pass the above mentioned 8 percent increase.

In short, costs have increased by almost 14 percent since 1974, yet GI education recipients have received only an 8 percent increase in benefits. Those veterans in school are still playing "catch-up."

While a 5 percent cost-of-living increase would keep education benefits up with the current inflation rate, the recipients are effectively still behind.

Under these circumstances PVA would normally urge this Committee to consider H.R. 917 which provides the 10 percent increase. We do strongly urge that you consider this option. I emphasize the word option. Our point is that we urge this Committee to consider several options. Perhaps while a 10 percent increase in education benefits is justifiable, the money could be better spent.

We strongly ask this Committee to think for a moment about the basis of the vocational rehabilitation and education benefits. They are in Part III of Title 38 under "Readjustment and Related Benefits." For the most part, the programs are aimed at assisting returning veterans to adjust to civilian life. Compared to other veterans' programs, such as disability compensation, they are relatively short-term programs, addressed to relatively short-term problems. However, the problems are not correspondingly less acute. We are all aware of the severe readjustment problems of Vietnam veterans.

The record of Congress in acting on many of these problems is commendable. This Committee's recent hearings over the employment of disabled and Vietnam veterans was a very welcome initiative. Yet more can be done, and if it is to be effective it must be done soon. Time for many Vietnam veterans is running out.

Consequently, we strongly urge this Committee to closely study the structure of the current GI Bill. Is it providing equal and adequate benefits? Does it discriminate against some veterans seeking different educational opportunities?

It has been asserted and documented that becauseof the structure of the current GI Bill equal benefits are not realized for equal service.

It has been shown that far larger percentages of veterans in the west and southwest have used their GI Bill opportunities than have veterans in the midwest and east. The principle determining factor seems to be the availability of low-cost two and four year educational institutions in the west. The structure of a set subsistence allowance seems to be making it much more difficult for veterans in the east to use the GI Bill. The $270 a month does not come close to meeting their expenses.

There have been several proposals to rectify this unequal distribution problem. In 1974 the Senate passed a tuition equalizer provision. Under that formula, the veteran assumed the first $100 of tuition costs and the Federal Government picked up 80% of the next $900 for a maximum payment of $720 per school year (originally contained in the Veterans Readjustment Act of 1974 S. 2784, Senate Report 93–907).

Perhaps, Mr. Chairman, this is not a viable solution to the unequal distribution of benefits and the resulting discrimination. Perhaps there is a better solution. We do not know. We strongly urge this Committee to look again into this problem and study it closely. We urge you to hear from all sides of the issue. We believe the problem is real and that all the proposals deserve a fair hearing.

There are other problems inherent in the structure of the GI Bill. A set subsistence allowance seems to work to the disadvantage of veterans who truly desire to enroll in only two year programs of education or vocational training. Proposals have been made which would allow veterans to double up their GI bill payments to receive higher monthly payments for a shorter period of time.

At this time PVA has no position on these proposals. We do, however, believe that a serious problem exists. Many disadvantaged Vietnam veterans are not using the GI Bill because it is oriented toward 4 year college level education. Again, we strongly urge this Committee to closely study the problem and give a fair hearing to all the proposals.

In this line we hope the Committee will devote time to considering the recent proposals by Mr. Wolff of New York which are aimed at developing more comprehensive services and better coordination of all the services in the areas of readjustment and employment.

We also urge this Committee to turn its attention to Chapter 31, the Vocational Rehabilitation Program for Service Connected Disabled Veterans. Are the counseling services adequate? How many seriously disabled veterans are using the program? Are veterans eligible for Chapter 31 using Chapter 34 because of higher subsistence payments under Chapter 34? Most importantly, is the program working as Congress intended it to work?

Since the enactment of Chapter 31 in 1943 under Public Law 78–16 great strides have been made in the theory and practice of vocational rehabilitation. We believe these methods can and should be applied under Chapter 31. Again, we strongly urge this Committee to study modernizing proposals for Chapter 31. The VA does have the potential to develop a model program for the rehabilitation of seriously disabled individuals.

In this line we hope the Committee will pay considerable attention to developing a concept of total rehabilitation for Chapter 31. This may include taking the vocational rehabilitation process in that chapter as far as job placement. The original law and amendments after WWII did not include job placement. Congress and the VA realized that it was an important part of the rehabilitation process but stopped short of a statutory mandate. Apparently one of the reasons for not mandating job placement was the general shortage of labor, both skilled and unskilled, which favored the employment of all.

That, as was made evident to this Committee, is not the case at all today. The unemployment rate for many groups of Vietnam veterans is very high. PVA suggests that this Committee study the possibilities of directing the VA to carry on job placement activities for veterans trained under Chapter 31.

In conclusion, Mr. Chairman, while the cost-of-living increases you have before you today are important much more must be done.

The readjustment problems of disabled and Vietnam veterans are severe. With each passing year they become more severe yet less attention is paid to them as Vietnam becomes history. Time in many senses is running out.

I have pointed out today several problems which have the attention of PVA. We are willing to study and recommend solutions. Many others have pointed out problems and recommended solutions. Our main message is that we cannot quit with cost-of-living increases. It is our strong desire to see this Committee move quickly to begin to recognize and study the readjustment problems of disabled and Vietnam era veterans.

Once again, thank you for your attention and the privilege of appearing before this committee.

Mr. ROFFE. Essentially we support the 5-percent cost-of-living increase. Our position is that it opens up your options on this committee. I emphasize the word "options" because we at PVA are very concerned. We have seen a lot of time pass and we have seen very few innovative measures in terms of the rehabilitation and readjustment benefits.

As I am sure you are well aware, there are many proposals back and forth. For examples there have been a lot of studies on the inadequate distribution of the GI bill benefits. Studies have shown that it costs less in the West to go to school so there is disproportionate use of GI bill benefits in the West as opposed to the East.

The VA's tuition assistance study said, "Well, it's a $750 average. It works out right, and there doesn't seem to be any problem."

Our concern is nobody seems to know exactly, and nobody seems to be looking very hard and very seriously at some of these very serious readjustment problems of the Vietnam veterans, and we would hope that this committee, in continuing with its initiatives that you started last week in the employment,would begin to look into some of these problems.

People on both sides have been articulate and had their positions backed up with studies, and we believe it is time for some action, to at least look as the proposals, study them very closely. Again, the ones coming to mind are the tuitions assistance allowance is to equalize the GI bill benefits.

We are particularly interested in chapter 31, "Vocational Rehabilitation." Since that law first came into being in 1943 tremendous strides have been made in theory and practice of the rehabilitation of severely disabled people in general.

Hardly anything has been done to chapter 31. Public Law 94-502 suggested to the VA that it change some of the terminology to modernize the provisions in the Administration. The VA has yet to respond, in our opinion.

We would like to see chapter 31 oriented on a similar basis to Vocational Rehabilitation Act of 1973, and this does include job placement. We did a study of the congressional intent legislative history of chapter 31, and it seems that the Congress did not put the VA in the job placement field with respect to seriously disabled veterans because during World War II there was a shortage of labor. There were very many job openings for veterans coming out, and the VA and people in the testimony before the Senate Finance Committee at that time said we don't need to push the VA into job placement.

As I am sure you are aware, the situation now is exactly the opposite. The job market is very tight, and the unemployment rate for

Vietnam veterans is very high. Now it is time to take a hard look at chapter 31, and push the VA into the job placement field and modernize their rehabilitation program.

I could go on, and I have done to a certain extent in my prepared testimony, Mr. Chairman, but I really hope that this committee does look seriously at some of the proposals for the readjustment problems for Vietnam veterans.

You have had several proposals from Mr. Wolff and the committee which deserve attention and study. I realize you are under budget constraints, but I think the studies should begin now, because time is running out. Vietnam ended more than 2 years ago, and pretty soon it will be past history. It will not be the agitation, but the problems will still exist.

In conclusion I hope that this committee can hold oversight hearings on the proposals and push themselves to be in a position to come up with some innovative changes in chapter 34 and chapter 31 next year. They can get at the readjustment problems of the Vietnam disabled veterans.

Thank you, Mr. Chairman.

Mr. MOTTL. Thank you very much, Mr. Roffee. Any questions of Mr. Roffee?

Mr. ALLEN. I have none.

Mr. MOTTL. If not, thank you very much for your testimony this morning, Mr. Roffee. Mr. R. E. Lyngh of the American Legion and Mr. David B. Evans requested that their statements be submitted for the record. There being no objection, it is so ordered.

[The statements follow:]

STATEMENT OF R. E. LYNGH, DEPUTY DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION, BEFORE THE SUBCOMMITTEE ON EDUCATION AND TRAINING, COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES, MAY 11, 1977

Mr. Chairman and members of the subcommittee, the American Legion appreciates the opportunity to appear before the Subcommittee at this time. Our intent is to present comment on two bills now pending before this Subcommittee, H.R. 917 and H.R. 2102. These bills are intended to effect changes in the rates now prevailing in vocational rehabilitation subsistence allowances, education and training assistance allowances, and special assistance payable to eligible veterans, and persons under chapters 31, 34, 35 and 36 of title 38, United States Code.

The position of the American Legion on the level of rates payable, as described above, is set forth in Resolution No. 107 (Kentucky), adopted by the last National Convention, in August 1976. That resolution, on the basis of data available at that time, relating to cost of tuition, fees, board and room, and other charges at major public and private colleges and universities, and relating further to figures released by the Bureau of Labor Statistics, Department of Labor, reflecting increases in the Consumer Price Index, called for an increase of 15 percent in the monthly rates payable for vocational rehabilitation subsistence allowance, education and training assistance allowance, and special assistance. It is our belief that the rate increases called for in our resolution were an appropriate response to the escalating costs as reflected in school charges and the Consumer Price Index.

Subsequent to adoption of the American Legion resolution, Congress enacted, and the President signed Public Law 94–502, the Veterans' Education and Employment Assistance Act of 1976. Public Law 94–502, provided an 8 percent increase in the various assistance levels under Chapters 31, 34, 35 and 36 of title 38. The American Legion supported the legislation, although we felt at the time that a higher rate of increase would have been appropriate. We do believe that Public Law 94–502 exercised a salutary effect on the ability of veterans to use the readjustment programs provided for them.

The rate increases provided by Public Law 94–502, were effective October 1 1976. Since that time, inflationary pressures have continued to operate in the economy. We have available a document entitled: 1976–77 Student Charges at State and Land Grant Universities, and published by the National Association of State Universities and Land Grant Colleges. Data in the document show the average combination of tuition, fees. room and board for resident students at this category of institution, in the 1976–77 year to have reached the level of $1,914, a 6.33 percent increase over the 1975–76 year. For nonresident students in the same category of institution, the like figure has reached the level of $2,870, a 5.01 percent increase.

Correspondingly, data from the Bureau of Labor Statistics, Department of Labor indicates that in October 1976, the Consumer Price Index stood at 173.1. At time of preparation of this statement, there are available, data for February 1977, showing the Consumer Price Index to stand at 177.1. a 2.19 percent increase over the October, 1976 figure.

The figures of the Bureau of Labor Statistics show that between October 1975 and October 1976, the Consumer Price Index moved from 164.6 to 173.3, a gain of 5.28 percent. And for the month of March, 1977, Department of Commerce figures show the nation to be in a condition of double digit inflation.

Based on the various figures here quoted, it must, in our judgment be anticipated that the Consumer Price Index will gain between 5 and 6 percent by October 1977; and that educational costs facing veterans in institutions of higher learning will also increase in the neighborhood of 6 percent.

To relate the readjustment programs administered by the Veterans' Administration to the rising costs affecting those veterans seeking to complete education and training. the American Legion believes that an additional adjustment should be made, no later than October 1, 1977, in vocational rehabilitation subsistence allowances, educational and training assistance allowances, and special assistance payable under Chapters 31, 34, 35 and 36 of title 38, United States Code. Bills that would accomplish this are presently before this Subcommittee. I refer specifically to H.R. 917 and H.R. 2102.

The intent of both bills is the same. H.R. 2102 would adjust allowances payable under the chapters identified above, at the rate of approximately 5 percent. H.R. 917 would make adjustments at the rate of approximately 10 percent.

On the basis of the various figures and statistics adduced in this statement, it is the opinion of the American Legion that the higher increase for the rates payable, during fiscal year 1978, is justified, and would be equitable to the veterans who will be affected by them.

At this time, we do not have available a projection of the dollar cost that would be attached to a 5 or a 10 percent increase in rates payable, and that would have to be included in the Veterans' Administration fiscal year 1978 appropriations. We would observe, however, that against the additional funds to be appropriated, will be set the lessening enrollments of veterans that have begun to be experienced in readjustment education and training programs. We do not believe the additional costs would be exorbitant.

It is our sincere hope that the Subcommittee will proceed to consideration of the matter of upward adjustment of vocational and educational assistance and subsistence allowances, and that it will recommend the upward adjustment of the rates for fiscal year 1978.

Mr. Chairman. that concludes our statement at this time, subject to any questions that you or Members may have.

NATA
NATIONAL
AIR
TRANSPORTATION
ASSOCIATION
[illegible] STREET N.W. • WASH[illegible] • [illegible]

STATEMENT

OF

DAVID B. EVANS

Director of Government Affairs

National Air Transportation Association, Inc. (NATA)

To be entered into the record
of Hearings May 11, 1977

BEFORE THE

SUBCOMMITTEE ON EDUCATION AND TRAINING

COMMITTEE ON VETERANS' AFFAIRS

U. S. HOUSE OF REPRESENTATIVES

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to present this statement to you on behalf of the industry represented by the National Air Transportation Association, Inc. I wish this statement to be part of the permanent hearing record of May 11, 1977.

NATA represents the interests of over 3,000 Airport Service Operators (FBOs) nationwide. These are small businesses which operate the nation's flight schools as well as support the operations of more than 750,000 certificated pilots and 170,000 civil aircraft serving air taxi, commuter airlines, and in many cases scheduled airline operations. FBOs show a labor force in excess of 150,000 full time employees, or about two-thirds of the entire general aviation industry. These businesses are vital links in the commerce of over 13,000 communities which have airports these operators serve. I will restrict these remarks to the availability of flight training for veterans.

Today you have before you two provisions to amend the amount of benefits to be provided to veterans seeking education and training. NATA feels very strongly that the entitlements for flight training must be brought up to the full amounts provided other forms of educational vocational training, and any increase allowed this year also be given to those seeking flight training. It is very prejudicial, we feel, to deny the right of a veteran to pursue his or her personal ambitions in flight training by making other programs more attractive.

As long as Congress is going to provide programs of education and vocational rehabilitation for veterans, flight training must be one of the courses available to the veteran.

No VA benefit program has a higher degree of educational and personal satisfaction than flight training. It represents a logical, practical, and timely means to new elements of transportation, communication, exploration, and economic development in the decades ahead, and will assure this country's continued world leadership in all facets of aviation.

As NATA has expressed to the Veteran Affairs Committee several times before, a VA flight training student is a highly motivated individual. To even be eligible for flight training benefits, a veteran must first have obtained a private pilot license with his or her own funds (at an average cost of $1300) and then pay 10% for the upgraded flight training courses. I dare say there are few, if any VA educational programs which demand such competency in accordance with federal laws (Federal Air Regulations), and so much from the veteran before any amount of benefits are received. The discrimination against this program is highly unjust to the veteran who seeks a career in which aviation is his direct or ancillary cornerstone to becoming a successful tax paying citizen.

We are appalled at the opinion of the Veterans Administration regarding the termination of flight training. Recently, Public Law 93-508 mandated by Congress a survey of all flight shcools to determine the facts. It proved beyond doubt that the proponents of termination cannot justify the inference that the majority of flight training courses tend to serve avocational, recreational, and/or personal enrichment. The survey directed that at least 50% of all graduates in the preceding two years be employed in training related jobs or the school would lose VA certification. After years of being maligned and demeaned, flight training was proven, by this study, to be overwhelmingly successful and beneficial. The results were that 70% of the 1,499 flight schools surveyed retained eligibility and only 28% of the 7,637 individual flight courses failed to meet the 50% qualification. Above and beyond that, the facts as reported by the Veterans Administration in the August 1976 Occupational Graduate Employment Report (which the VA made very difficult to obtain) shows that 90.3% who took flight training courses are employed in jobs in the same or closely related type of work. This is a VA statistic. Out of all courses, flight training was number three in the amount of graduates employed in the same or closely related type of work. If the VA would only look at their own figures, they could not possibly justify their position of termination of flight training benefits.

The proponents for termination and/or withholding increased benefits, have stated "opportunities for employment in commercial aviation for flight school graduates are limited" because there are some furloughed pilots "who will be given preference in any hiring by the airlines." They fail to see the majority of jobs available to flight training graduates in the vast field of aviation. These are your commuter, air taxi, agricultural, corporate, government pilots and support personnel, flight instructors, and airport managers. Employment opportunities in these areas are numerous!

The VA has tried unsuccessfully many times to terminate enrollments in flight training. Congress in their wisdom has seen fit to keep flight training as an available course for the veteran seeking educational assistance. Since the VA has had little success on Capitol Hill, they have turned to other means to try to make it administratively impossible for a flight school to operate with VA flight training students. The VA should not be allowed to override the experience of the Federal Avaition Administration in matters relating to the flight training courses. Your guidance to the VA would be helpful in allowing the veteran to become the professional aviator our flight schools want to produce.

NATA appreciates the opportunity to present these views to the committee. If at any time we can be of further assistance, we are readily available.

Mr. Mottl. If there is nothing else, or any other witnesses, then the subcommittee will now adjourn.

Thank you very much.

[Whereupon, at 11:37 a.m., the hearing was adjourned.]

PUBLIC LAW 94-502

HEARINGS TO RECEIVE TESTIMONY WITH REGARD TO OVERSIGHT OF PUBLIC LAW 94-502

THURSDAY, MAY 19, 1977

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EDUCATION AND TRAINING,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 8:35 a.m., Hon. Mark Hannaford (acting chairman) presiding.

Mr. HANNAFORD. The subcommittee will be in order.

Good morning. This is the Subcommittee on Education and Training and the oversight hearings with regard to the provisions of Public Law 94-502.

This morning, the hearings with regard to the implementing provisions of Public Law 94-502, the Veterans' Education and Employment Assistance Act of 1976, continue.

The subcommittee has held a number of oversight hearings on Public Law 94-502 beginning last March. Witnesses have appeared before the subcommittee representing the veteran, the educational community, and Members of Congress.

This morning the subcommittee is privileged to have scheduled a number of outstanding educators from the State of New York to be with us, and the subcommittee looks forward to hearing from them regarding the veterans' education and training program.

I will observe that it has been only a little over 9 hours since Congress adjourned from the previous day's session and we are fortunate to have three members alive and stirring—one who is not a member of this committee even. I will invite my good friend and colleague, Congressman Walsh, to introduce his two constituents. Mr. Walsh.

Mr. WALSH. Thank you very much, Mr. Chairman. I certainly appreciate the cooperation of the chairman and the members of the staff in holding this hearing at such an early hour. I have always felt very frustrated to have important witnesses come down and appear before a committee and then have their testimony interrupted by a call of the House or vote call. It was for this reason that we moved this testimony up to this ungodly hour, so I do appreciate the cooperation, Mr. Chairman.

Last year this subcommittee achieved notable success in focusing attention on analyzing and resolving the problems of overpayments of educational benefits to veterans by the Veterans Administration.

This action has and will in the future save the taxpayers of this country millions of tax dollars. During our hearings last year, we heard from many witnesses representing the education community about the overpayments problem. However, in our zeal to legislate effective solutions, we may well have failed to give adequate attention to the additional administrative burden the new regulations would place on our colleges and universities.

The longstanding cooperation between the Veterans' Administration and the higher education community has been the key to the success of our veterans educational and benefits program which has provided educational opportunities to many individuals who would otherwise be denied them.

I am sure we all agree that it is only right that we compensate those who have served in our Armed Forces, often at great personal risk. We want to continue to offer educational opportunities to our veterans.

In order to do so, however, we must continue to maintain the cooperative relationship between our educational institutions and the Veterans Administration.

Thus, I am most pleased the chairman has agreed to call this hearing so that we on the subcommittee can fully understand the problems our institutions of higher education face in administering the GI bill on the campuses across the Nation.

There particular areas of concern to the colleges and universities participating in the veterans' education program merit our attention today. The 85–15 rule, the 2-year rule, and the standards of progress ruling.

I brought some distinguished members of the education community of upstate New York down here. They consented to travel here and advise this subcommittee on the types and magnitudes of the problem they face in administering that portion of the veterans' education program in which they participate.

When they first came to me and outlined some of their programs, I decided probably the best thing that we could do would be to have them come down and tell us first-hand the problems and, hopefully, the solutions that they would recommend in order to make cooperative arrangements between the Veterans' Administration and the higher education institutions work even better.

I would like to present at this time two gentlemen who are here and my colleague, Congressman Fish, will present another witness.

I suggest that I merely introduce my two witnesses and then Congressman Fish can introduce his witness and then he can return to the duties of his own committees.

At this time, I would like to present Chancellor Mel Eggers, the chancellor of Syracuse University, and a very personal and good friend. It is a high privilege to present Mr. Eggers.

And Mr. Ewald Nyquist, the commissioner of the State education department of the State of New York, one of the most distinguished educators in the country. It is a pleasure to have you gentlemen here. We appreciate it.

Mr. EGGERS. Thank you.

Mr. NYQUIST. Thank you.

Mr. HANNAFORD. Thank you, Mr. Walsh. We would like to tell you how much of a pleasure it is to have you with us this morning, Mr. Fish, at this early hour.

If you care to make a statement, please do so and then you can introduce your witness.

Mr. FISH. Thank you, Mr. Chairman. I think Congressman Walsh said it all. I would like to introduce, very proudly, Mr. John Connolly, president of Dutchess Community College. I think that because he is a president of a community college which has a very large student body composed of veterans, he is in a very good position to be a witness this morning.

I have worked with John over many years that he has been in our community in Dutchess County and I think that he is uniquely able to discuss these programs cited by Congressman Walsh and their impact on the administration of the State university, I am very pleased that he is with us today and I know he will be a very valuable witness to the subcommittee.

Thank you very much.

Mr. HANNAFORD. I certainly thank you, Mr. Fish.

I also want to thank the witnesses for being so generous with their time and helping us to try to resolve this problem.

I would invite you now to proceed in whatever manner you choose—to read your statements, if you choose to do that or else to present them extemporaneously. You may proceed in whatever order that you wish, but if you have no particular order, then the order in which you were introduced—Mr. Eggers, Mr. Nyquist, Mr. Connolly. I thank you for joining us this morning.

STATEMENT OF MELVIN A. EGGERS

Mr. EGGERS. Thank you, Mr. Chairman. And thank you, Mr. Walsh. Two papers will be presented orally and one will be filed. Three papers constitute a unit, although there will be some overlap and we would be very delighted to try to respond to such inquiries as may occur to you after we have presented our statement.

We sincerely appreciate the opportunity to appear before you this morning to express our deep concern about the oppressive impact of the present legislation and regulations of the Federal veterans education program on our universities and, thus, on student veteran participants of the GI bill. This seeming adversity between the academy and the Veterans' Administration is in marked contrast to a long period of complementary and mutually supportive relationships. Indeed, there are some at Syracuse University who contend that the enrollment increases made possible by the GI bill following World War II were pivotal in the evolution of our university as well as for other universities. That period in higher education was characterized by growth in the size and in the quality of the academic establishment.

The environment in which we operate today, and the one in which we will operate tomorrow, are not so buoyant. The joint effects of inflation and demography will continue to test the very fiber of the academy and our ability to provide dynamic programs of high quality that meet the needs of contemporary learners while we undergo a period of resource stability. It is, no doubt, these harsh realities that have given rise to the abuse that the present law and regulations would seek to prevent. In that goal of avoiding abuse in the allocations and applications of all forms of student aid for higher education, you have our unequivocal concurrence and support. For we have all been tarred with the same bush. Tolerance of fraud serves to do nothing but jeopardize the legitimate claimants of public programs—and I will tell you frankly, those programs of public support are critically important to those students who might wish to attend Syracuse University. But we must find a way—or a set of ways, since our institutions are a heterogeneous lot—to control opportunities for abuse without sapping the very limited resources that must be husbanded in ways that will foster high quality in academic offerings.

The challenge that faces Syracuse University over the next 5 years is to offer educational services that will attract sufficient resources—by attracting students, support from Government and from philanthropy—so that we can sustain and enhance academic programs so painstakingly developed.

To give you some sense of the magnitude of GI benefits to students attending Syracuse University, we have estimated that in the current year approximately $2 million of such allowances would flow to about 720 students. The mix of students is reported in the paper and I will not read it at this time.

About 3 percent of our main campus enrollment and 9 percent of off-campus enrollment are receiving allotments in accordance with the GI bill.

This total sum of $2 million in GI benefits compares with $3.1 million accruing to New York State students receiving student aid under the tuition assistance program, $1.6 million from the Federal basic grants program, $6.8 million from the college-based aid programs—that is the supplemental grants, college work study and NDSL—and $9 million from the various institutional sources of student aid.

In summary, GI benefits are strikingly important for those students receiving them. Yet they do not provide a "free ride" to the student seeking to study at Syracuse University. A GI with one dependent generally receives about $2,800 during an academic year, yet the average cost of attendance, including tuition, living expenses and allowances, used by our office of financial aid, is more than $7,000 at present. It is equally clear that Syracuse University does not receive a substantial share of its student revenues from participants in the GI program.

We will take issue with several specific features of the current law and regulations and will then turn to some suggested approaches that might achieve a solution.

The 2-year rule intrudes upon fundamental academic practices rooted in the history of our institution. At Syracuse University the process which precedes the introduction of any new degree program at any campus site—before the admission of the first student into a course of study—is an extensive self-regulating ritual, one which could easily take 2 years. A typical procedure would involve the departmental faculty and its curriculum committee, assessments by analogous bodies at the college level, review by the university board of graduate studies, the university senate and its committee on academic instruction, the board of trustees and the New York State

Board of Regents. To insist that any such program of study offered at an off-campus location should be fully operational for 2 years before a qualifying GI may matriculate is an arbitrary intrusion that makes a mockery out of the time-tested methods of academic evaluation and invites evasion of such regulations by students.

As many of you may know, Syracuse University has had a long history of program offerings in continuing education; you might even say we are renown. Our university college has been providing instruction to part-time and evening students since 1918. We now have considerable concern that our off-campus programs—such as those at Utica, Poughkeepsie, Endicott and Corning which have been in operation for over 25 years—may require a time-consuming recertification process before they are sanctioned for GI matriculation. I submit that the 2-year rule does not serve the interests of the consumer or those of higher education.

The waiver we have received from the so-called 85/15 provision expires on June 30. In accordance with the present law as interpreted by the regulations, the eligibility of our GI students would require reporting to the Veterans Administration, within 30 days of registration, the number and percentage of students in each program of study and for each campus location, who receive GI benefits and who receive various forms of Federal aid, such as BEOG and SEOG. I will candidly tell you, we are literally unable to produce such reports, despite the development of a new integrated-comprehensive student records system that is serving as a model for other colleges and universities. This management information system was selected for Federal funding support because it accommodated the needs of a wide range of academic users.

It could not produce these data without extensive reprograming for which we have not yet been able to develop cost estimates. It could not do so because admission and transfer decisions into academic programs are not based on the distribution of financial aid sources of other students matriculated in that degree program. Decisions about admission of students into academic programs of study are made on the basis of student preferences and abilities in relation to program capacity. The aid policy and philosophy of Syracuse University are to supplement self-help, and State and Federal student aid with institutional funds on the basis of need without regard to how many other students in that program are recipients of various forms of financial aid.

The consequences of the 85–15 provision may be, No. 1, to deny students access to benefits for which they are eligible because 85 percent of the other students in that particular chosen academic program are also recipients of the same student aid benefits, or No. 2, to force students to seek admission into an alternative academic program with a more balanced distribution of student aid. Neither eventuality is in the interest of the student, the needs of society or the Veterans Administration.

In the area of measurement for payment purposes, Syracuse University has great concern over the retroactive advisement that student classroom contact hours would be utilized as a measure of full-time status. For university billing purposes and for determining full-time status in all other matters, credit hours are utilized; information about hours spent in class may only be obtained by inspecting individual student time schedules.

A number of time-honored course activities such as thesis/dissertation, research and independent study and several innovative academic modes such as variable credit offerings and external degree programs, would not reflect the VA regulated requirement for direct classroom instruction. Mandated regulations of this ilk, represent an intrusion on fundamental prerogative of faculty, university governing bodies and accreditation/certification agencies. They would overturn procedures that have successfully guaranteed educational safeguards without providing equivalent assurances.

The controversy which we address now has been permitted to fester over the months while many institutions have been unaware or inattentive to the impending onslaught of eligibility regulations and reporting requirements that are both onerous and arbitrary.

It is my sense that such intricately detailed traps do not serve the citizens of this Nation and threaten to further ensnare this body, the Veterans Administration, the students and the institutions of higher learning, in administrative and legal confrontation. Approximately 30 court cases have been initiated since last fall.

Confidence has been eroded in the ability of the Veterans Administration to discharge evenhandedly the full range of veterans' benefits. The institutions of higher education have become a convenient target. They exercise no control over the disposition of veterans' assistance funds, yet are charged with first-line liability when the VA pronounces the existence of overpayments.

This subcommittee has an important responsibility in the development of workable solutions to the problems posed. In the end, the victims of the breach that has occurred between the Veterans Administration and the higher education community are the veteran students.

Resolution will require the cooperative support of all parties; we would hope that a meeting, previously requested, between the new Administrator of the VA and representatives from higher education, would be forthcoming. That would certainly be a positive step.

We would also commend to your attention recently completed reports that deal with the general subject of Federal regulations of higher education and, in particular, with burdensome reporting requirements. We have attached to this testimony copies of two reports that deal with this subject, the "Report of the Secretary of HEW's Work Group on Consolidation and Simplification of Reporting Requirements" and the "Report of the Interagency Task Force on Higher Education Burden Reduction". These recommendations for streamlining the process of reporting and introducing consultation for legislative intent and institutional impact in the preparation of regulations, deserve serious attention by the Veterans' Administration.

Thank you for this opportunity to express our views.

Mr. HANNAFORD. I thank you, Mr. Eggers. There being no objection, your entire statement and attachments will be included in the record.

[The material follows:]

Testimony for Subcommittee on Education and Training, Committee on Veterans' Affairs, U.S. House of Representatives, by Chancellor Melvin A. Eggers', Syracuse University, May 19, 1977

Mr. Walsh, Mr. Chairman, and members of the Committee, we sincerely appreciate the opportunity to appear before you this morning to express our deep concern about the oppressive impact of the present legislation and regulations of the Federal Veterans Education Program on our universities and, thus, on student veteran participants of the GI Bill. This seeming adversity between the academy and the Veterans' Administration, is in marked contrast to a long period of complementary and mutually supportive relationships. Indeed, there are some at Syracuse University who contend that the enrollment increases made possible by the GI Bill following World War II were pivotal in the evolution of our university as well as for other universities. That period in higher education was characterized by growth in the size and in the quality of the academic establishment.

The environment in which we operate today, and the one which we will operate tomorrow, are not so buoyant. The joint effects of inflation and demography will continue to test the very fibre of the academy and our ability to provide dynamic programs of high quality that meet the needs of contemporary learners while we undergo a period of resource stability. It is, no doubt, these harsh realities that have given rise to the abuse that the present law and regulations would seek to prevent. In that goal of avoiding abuse in the allocations and applications of all forms of student aid for higher education, you have our unequivocal concurrence and support. For, we have all been tarred with the same brush! Tolerance of fraud serves to do nothing but jeopardize the legitimate claimants of public programs—and I will tell you frankly, those programs of public support are critically important to those students who might wish to attend Syracuse University. But we must find a way—or a set of ways, since our institutions are a heterogeneous lot—to control opportunities for abuse without sapping the very limited resources that must be husbanded in ways that will foster high quality in academic offerings. The challenge that faces Syracuse University over the next five years is to offer educational services that will attract sufficient resources—by attracting students, support from government and from philanthropy—so that we can sustain and enhance academic programs so painstakingly developed. To give you some sense of the magnitude of GI benefits to students attending Syracuse University, we have estimated that in the current year approximately $2 million of such allowances would flow to about 720 students. The mix of students is as follows:

	Main campus		Extended campus		Total	
	Number	Percent	Number	Percent	Number	Percent
Undergraduates	128	1.3	162	9.1	290	2.4
Graduates	271	6.3	156	8.4	427	7.0
Total	399	2.7	318	8.7	717	3.9

Thus, about 3 percent of our main campus enrollment and 9 percent of our off-campus enrollment are receiving allotments in accordance with the GI Bill.

This total sum of $2 million in GI benefits comparies with $3.1 million accruing to New York State students receiving student aid under the Tuition Assistance Program, $1.6 million from the federal Basic Grants Program, $6.8 million from the college-based aid programs (Supplemental Grants, College Work Study and NDSL) and $9 million from the various institutional sources of student aid.

In summary, GI benefits are strikingly important for those students receiving them. Yet they do not provide a "free ride" to the student seeking to study at Syracuse University. (a G.I. with one dependent generally receives about $2800 during an academic year, yet the average cost of attendance, including tuition, living expenses and allowances, used by our Office of Financial Aid, is more than $7000 at present). It is equally clear that Syracuse University does not receive a substantial share of its student revenues from participants in the GI program.

We will take issue with several specific features of the current law and regulations and will then turn to some suggested approaches that might achieve a solution.

The 2-year rule intrudes upon fundamental academic practices rooted in the history of our institution. At Syracuse University the process which precedes the introduction of any new degree program at any campus site—before the admission of the first student into a course of study—is an extensive self-regulating ritual, one which could easily take two years. A typical procedure would involve the departmental faculty and its curriculum committee, assessments by analogous bodies at the college level, review by the University Board of Graduate Studies, the University Senate and its Committee on Academic Instruction, the Board of Trustees and the New York State Board of Regents. To insist that any such program of study offered at an off-campus location should be fully operational for 2 years before a qualifying GI may matriculate is an arbitrary instrusion that makes a mockery out of the time-tested methods of academic evaluation and invites evasion of such regulations by students.

As many of you may know, Syracuse University has had a long history of program offerings in continuing education; you might even say we are renown. Our University College has been providing instruction to part-time and evening students since 1918. We now have considerable concern that our off campus programs—such as those at Utica, Poughkeepsie, Endicott and Corning which have been in operation for over 25 years—may require a time consuming recertification process before they are sanctioned for GI matriculation.

Ladies and gentlemen, I submit that the 2-year rule does not serve the interests of the consumer or those of higher education.

The waiver we have received from the so called "85/15 provision" expires on June 30th. In accordance with the present law as interpreted by the regulations, the eligibility of our GI students would require reporting to the VA, within 30 days of registration, the number and percentage of students in *each* program of study and for *each* campus location, who receive GI benefits and who receive various forms of federal aid (e.g. BEOG, SEOG). I will candidly tell you, we are literally unable to produce such reports, despite the development of new "integrated-comprehensive" student records system that is serving as a model for other colleges and universities. This management information system was selected for federal funding support because it accommodated the needs of a wide range of academic users.

It could not produce these data without extensive re-programming for which we have not yet been able to develop cost estimates. It could not do so because admission and transfer decisions into academic programs are not based on the distribution of financial aid sources of other students matriculated in that degree program. Decisions about admission of students into academic programs of study are made on the basis of student preferences and abilities in relation to program capacity. The aid policy and philosophy of Syracuse University are to supplement self-help, and state and federal student aid with institutional funds on the basis of need without regard to how many other students in that program are recipients of various forms of financial aid.

The consequences of the 85–15 provision may well be:

(*a*) to deny students access to benefits for which they are eligible because 85 percent of the other students in that particular chosen academic program are also recipients of the same student aid benefits; or

(*b*) to force students to seek admission into an alternative academic program with a more balanced distribution of student aid.

Neither eventuality is in the interest of the student, the needs of society or the Veterans' Administration.

In the area of "measurement for payment purposes," Syracuse University has great concern over the retroactive advisement that student classroom contact hours would be utilized as a measure of full-time status. For university billing purposes and for determining full-time status in all other matters, credit hours are utilized; information about hours spent in class may only be obtained by inspecting individual student time schedules. A number of time-honored course activities such as thesis/dissertation, research and independent study and several innovative academic modes such as variable credit offerings and external degree programs, would not reflect the VA regulated requirement for direct classroom instruction. Mandated regulations of this ilk, represent an intrusion on the fundamental prerogative of faculty, university governing bodies and accreditation/certification agencies. They would overturn procedures that have successfully guaranteed educational safeguards without providing equivalent assurances.

The controversy which we address now has been permitted to fester over the months while many institutions have been unaware or inattentive to the impending onslaught of eligibility regulations and reporting requirements that are both onerous and arbitrary. It is my sense that such intricately detailed traps do not serve the citizens of this nation and threaten to further ensnare this body, the Veterans' Administration, the students and the institutions of higher learning in administrative and legal confrontation. (Approximately 30 court cases have been initiated since last fall.) Confidence has been eroded in the ability of the Veterans' Administration to discharge evenhandedly, the full range of veterans' benefits. The institutions of higher education have become a convenient target. They exercise no control over the disposition of veterans' assistance funds, yet are charged with first-line liability when the VA pronounces the existence of overpayments

This subcommittee has an important responsibility in the development of workable solutions to the problems posed. In the end, the victims of the breach that has occurred between the Veterans' Administration and the higher education community are the veteran students. Resolution will require the cooperative support of all parties; we would hope that a meeting, previously requested, between the new Administrator of the VA and representatives from higher education, would be forthcoming. That would certainly be a positive step.

We would also commend to your attention recently completed reports that deal with the general subject of federal regulations of higher education and, in particular, with burdensome reporting requirements. We have attached to this testimony copies of two reports that deal with this subject, the "Report of the Secretary of HEW's Work Group on Consolidation and Simplification of reporting Requirements" and the "Report of the Interagency Task Force on Higher Education Burden Reduction". These recommendations for streamlining the process of reporting and introducing consultation for legislative intent and institutional impact in the preparation of regulations, deserve serious attention by the Veterans' Administration.

We thank you for this opportunity to express our views.

REPORT OF THE INTERAGENCY TASK FORCE ON HIGHER EDUCATION BURDEN REDUCTION—DECEMBER 14, 1976

INTRODUCTION

The Federal Government and colleges and universities have in recent decades entered into a remarkable partnership, building the world's greatest capability for scholarship, advanced education and the application of fundamental knowledge to the pressing problems of our society. The Government played a leading role in recognizing the unique resources represented in our higher education institutions, but has turned in the last 20 years toward offering support for those programs and incentives which further national objectives directly. This growth of categorical aid to universities and colleges has brought with it the expected controls born of the need for stewardship in the use of these Federal monies. Many institutions are critically dependent on this Federal support. As wave after wave of regulations, surveys, and compliance activities have hit, they have until recently endured with suffering and silence, while resources made scarce by shrinking dollars have been diverted to administrative and accountability functions.

In the last few years, however, there has been a rising level of consciousness, an awarenes by the institutions that unless a wider perspective can replace the individualistic motivations of those in Federal agencies who, by themselves, define the need for data and detailed accountability, this special partnership between Government and the institutions will be maimed. It is even now severely strained.

In his opening remarks to this Interagency Task Force on Higher Education Burden Reduction, Dr. Mathews, Secretary of Health, Education, and Welefare, said:

"The strength behind that protest is considerable, determined and permanent. It is an idea whose time has come.

"At this point, you have control of how the needed changes will come about. They can come about with some deliberation on the part of people who are invested with the responsibility or they can come about more precipitously with less thought. I am fully convinced that it is in your interest and the interest of your agencies to make some accommodation to the petition of the institutions of higher learning and post-secondary education in this country. I think it serves your purpose and their purposes as well."

The Interagency Task Force brought together, under White House initiative, 28 people from 15 agencies to: assess the problem; evaluate a set of recommendations[1] made by a group of college and university experts on Federal paperwork and reporting burdens; and propose specific steps which would have the greatest effect on the reporting and recordkeeping burdens of the institutions.

The charge was to have an impact, and promptly. This established the scope for the work of the Task Force. The resultant recommendations below concentrate on relatively immediate steps which would considerably lessen the tensions between academia and the Government and relieve much of the workload that falls on the institutions and Government alike.

RECOMMENDATIONS

1. At present there is no single directory or index to Federal data gathering programs affecting higher education institutions which can be used by the agencies or the various forms clearance offices to identify sources of data, technical survey design expertise, or duplication. The Task Force recommends that the Statistical Policy Division, Office of Management and Budget, should develop such an index, with entries made at the earliest notice from the agencies of plans to collect data and updated as each form is revised or new forms added. This fully-developed capability might involve a computerized information system which could be tapped by remote terminal permitting a search by topic, by data element, and by agency. Periodically it would be possible to produce from this data base a directory of forms being used with higher education institutions, making available a data source reference for use by those seeking data about higher education institutions.

2. The Task Force believes that the data acquisition plan of the Education Division of HEW is an important tool for planning and evaluating information needs and resources. This plan identifies the data gathering activities to be undertaken in the following fiscal year. Those which are approved are the only data acquisition activities which can be mounted that year. The Task Force recommends that all Federal agencies develop data acquisition plans.

3. The Task Force does not find that control of the paperwork dilemma can be gained simply by demanding that agencies meet even more stringent and detailed documentation requirements for the approval of forms than now exist. Many forms designed to collect survey data and to satisfy administrative recordkeeping requirements are well designed, and reflect excellent conceptual, technical, and consultative efforts. Requiring in all cases that forms clearance be subject to extensive clearance documentation discourages the responsible approaches to information collection which should be encouraged. Increased internal paperwork within government can be as needlessly burdensome as it is at colleges and universities.

The Task Force therefore recommends that OMB revise its forms clearance procedures by requiring a notice to OMB of the intention to originate or renew a form. OMB would then assign the form to one of two clearance tracks, using stratified random sampling method. However, controversial or particularly burdensome forms could be assigned to the second track with certainty. The smaller set of forms in the "audit" track would require the full and extensive package of documentation called for in the current OMB instructions for Form 83 and elsewhere in the Task Force report. Intensive OMB review of forms clearance packages in the second track on the described sample basis should provide sufficient basis for an assessment of the agency's capacity to produce optimal information gathering instruments and complete justifications.

In subsequent cycles, agencies with demonstrated success in previous audits should continue to have their work examined on the modified random basis described above. Failure to satisfy the justification and documentation requirements of the Federal Reports Act and related regulations and OMB circulars shall be taken as prima facie evidence of an agency or division's inability to control unnecessary, uneconomical, ineffective, or burdensome reporting requirements. OMB would then audit in succeeding years a much larger portion of clearance packages only from those offices which fail the initial audit.

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[1] *Report of the Secretary's Work Group for Consolidation and Simplification of Federal Reporting Requirements for Institutions of Higher Education*, HEW, October 15, 1976.

4. The Task Force recommends that higher education institutions and their representative organizations should serve as experts on the design, feasibility, necessity, and appropriateness of statistical surveys of such institutions. This consultation should be sought by survey sponsors early in the planning process, before data formats and definitions are nearly finalized. Although such consultation would be also available to the Clearance Offices of OMB and GAO, its greater value will be in the development and evaluation phases of survey planning by the agencies.

5. Although there are three basic measures used by OMB to measure Federal reporting requirements (number of reporting forms, number of respondents, and amount of time required to complete the reports), identifying the level of burden requires the accurate estimation of all three measures. The Task Force review of selected clearance packages and analysis of reporting procedures showed that amount of time required is unlikely to be known by the agencies or OMB.

Most forms require for their completion the cooperation of many offices at colleges and universities, and the number of respondents is a variable multiple of the number of institutions filing the report. The understatement of number of respondents would not itself be a serious problem if the number of person-hours required to complete the forms were actually known. The usual agency practice of estimating average person-hours in almost every case ignores the range of effort across institutions and the fact that the burden is knowable and need not be guessed at by agencies in Washington.

The Task Force recommends that for all forms a sample of respondent institutions be asked to report estimates of marginal person-hours that are necessary to complete the form. This estimate should be given in two categories: (1) the time required for reporting the information after it has been assembled; and (2) the time expended in collecting and assembling the information if it is not already available.

Agencies should design the samples so that good empirical estimates of the distribution of burden can be derived for institutions of different size and type of control. These estimates should be used in weighing the need for the information against its burden to the respondents.

6. Complaints of response burden are frequently to be found at the institution level but less recognized at the agency level. In order to better evaluate the burden of Federal forms, the Task Force recommends that agencies maintain comment and complaint files on a form-by-form basis and use them in forms redesign and in interpretating the data obtained.

7. The Task Force finds ample evidence that the current practices of planning surveys and pretests, and the current statutory requirement of formal clearance of all surveys addressed to more than nine respondents, are insufficient to minimize the reporting burdens. The Task Force recommends comprehensive pretesting by the form and survey sponsors at a representative group of institutions prior to submission to OMB or GAO for final clearance to permit sponsors to identify potentially onerous aspects of their proposed instruments and generally improve the quality of data collected.

The Task Force also recommends that pretesting should be done on site at institutions so form and survey sponsors can see firsthand any special difficulties and be more able to provide instructions and instruments which will meet the criteria of efficiency, adequacy and minimum burden on respondents.

8. The collection of highly detailed information by which Federal agencies may discover the failure of institutions to comply with regulations or statutes may be inappropriate when respondent burden and practical utility to the agency are considered. The Task Force recommends that screening surveys be utilized to detect the need for the subsequent collection of more detailed data. Although this two-stage approach may appear to take more time, there will be far less respondent burden, the compliance agency will not have to handle such a large volume fo unused data, and the staff can be made available for the analytic work which so often is pressed into the background.

9. The Task Force recommends that special attention should be paid by survey sponsors to the workload required for statistical and administrative reporting as it impacts on certain groups of institutions. For example, small institutions have less capability to take on what might be a modest request of a campus with more resources. The data which might be obtained from the smaller institutions or other categories of institutions may weight very lightly in the corpus of data for decision-making, but nevertheless pose a workload, perhaps a clear example of unnecessary burden.

10. Sampling of the data items should also be used to reduce respondent burden. For example, certain data might be collected by a census of all institutions, while more detailed data would be obtained from just a sample of those institutions. This approach will still be considered a single survey by the Clearance Office, OMB, because its objective is to reduce reporting burden.

11. The Work Group Report [2] recommended that all Federal data activities be consolidated in a single agency in order to reduce the number of Government/institution contracts, standardize definitions, remove duplication, minimize changes in definitions and data formats, and disseminate the results in a timely fashion. Careful examination of the implications of this proposal has led the Task Force to recommend against a single data collection agency. In the view of the Task Force, these objectives would not be guaranteed by such an agency.

On the other hand, there are counter-indications that a single data collection agency could add problems. What is often thought by critics of Federal reporting requirements to be duplication often turns out to be not much redundancy, but a very heavy load of reporting which does not appear necessary. In many cases data serve specific program or policy purposes, and increasing the distance between user and data collector is inadvisable. No currently established agency is staffed or otherwise prepared to handle the heavy workload of such a consolidation, and increased funding of that magnitude is unlikely. Agencies which become dependent on another agency for their data will become vulnerable when exposed to data policies or changing priorities which they cannot control. The complexity of such a new organization would not lead to simplification of the contacts between Government and the institutions. The single agency could not be expected to be able to provide the substantive expertise in the depth now available in specialized agencies.

Many of the recommendations of the Task Force, if implemented, can be expected to cut back on unnecessary or poorly designed data collection efforts. Instead of supporting the single agency concept, the Task Force recommends enhanced support for the continued improvement of statistical agencies and units, such as the survey, data library and dissemination services at the National Center for Education Statistics (NCES).

The Task Force also recommends that survey data from non-federal organizations should be added to the EDSTAT system at NCES to broaden the base of statistical information.

12. The Task Force recommends that data elements which have multi-agency uses be identified early in the planning process and that priority be given to the early editing and release of responses to these items. The Task Force also urges agencies to utilize partially pre-filled forms, drawing from data already in Federal agency files.

13. The Federal Administrative Procedure Act establishes a process for ensuring that public reaction to Federal policies is considered during the development of regulations. The several steps in this process include publication of a Notice of Proposed Rule Making (NPRM) with a 45-day comment period prior to publication of final regulation; encouraging comments through public hearings; requiring that Federal agencies maintain a record of written comments received during the NPRM comment period for review by interested persons; and, publication of final regulations reflecting public opinions and suggestions for change.

A quick survey of thirteen of the agencies represented on the Task Force indicates that public involvement is an increasingly important factor in the regulations process, and that the agencies should reflect this in a more systematic way. The Task Force recommends that Federal agencies should, where appropriate, introduce into the current regulations development process a "notice of intent to develop regulations" to be published in the Federal Register with an allowed comment period of 45 days prior to the NPRM stage. The current Notice of Proposed Rule-Making process should, where appropriate, detail the type of reporting forms that will be required by the new set of regulations and estimate the burden institutions will have to assume in collecting or maintaining data. The agency should indicate its willingness to evaluate within two years the impact of the regulations in major policy areas.

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[2] Ibid.

14. Accountability for Federal Funds is necessary; however, OMB should reduce the institutional recordkeeping requirements entailed in Federal time and effort reporting and documentation of cost sharing by ensuring that collected information is meaningful and useful. OMB should implement the Commission on Government Procurement recommendation (B–8) which would effectively eliminate the necessity for cost sharing on R&D projects in concurrence with a similar recommendation endorsed by the Federal Paperwork Commission at its meeting on December 3, 1976. OMB should also seek omission of cost sharing requirements in the Independent Offices-Hud and HEW-Labor Appropriations Acts.

15. The Task Force recognizes the accomplishments inherent in OMB Circular A–110, which establishes uniform administrative requirements for grants and other awards received from Federal agencies. This Circular is expected to contribute appreciably to the reduction of the recordkeeping and reporting burden on colleges and universities on all grants and on those contracts, though few in number, to which it applies.

The Task Force believes that this contribution could be considerably enhanced if the standards set forth in OMB Circular A–110 could apply, in some measure at least, to the majority of contracts for research, training, demonstration, and public service that are generally performed in colleges and universities. There would undoubtedly have to be some flexibility in order to conform to the major procurement regulations, but Circular A–110 represents a significant achievement that should be extended where possible to contracts.

OMB is urged to consider such extension.

16. A single agency should be identified for managing the Federal interest in selected areas, such as human subjects protection, care and use of laboratory animals, clean air, pure water, and patents. Such an approach could be modeled after the existing cognizant audit agency concept which has reduced duplicative activities associated with financial audits of federally-sponsored programs by assigning each college and university to a single auditing agency, generally the agency with the greatest support to that institution.

The current mode of operation in such areas could be characterized as an informal version of lead agency responsibility, i.e., one agency having the broad legislative mandate in a given area, but other interested agencies are still able to regulate with no assurance that individual provisions are compatible to other existing agency guidelines. A case in point is the area of human subjects research. An institution of higher education may have to negotiate separate general assurance for the use of human subjects in research and related activities reflecting the different requirements of, for example, HEW, ERDA, and the Consumer Product Safety Commission. Under the cognizant agency concept, on the other hand, a single agency would assume complete responsibility for the development of all regulations in that area, reviewing existing regulations across Government and prepare a codification with recommendations for legislative changes as necessary to remove inconsistencies. It would minimize the reporting and recordkeeping burden by being the only agency having interface with higher education institutions in a given area.

In support of the cognizant agency concept, the President should direct all appropriate agencies to respond within 90 days to his request for agency positions in regard to the assumption of the cognizant role in the areas of: (1) human subjects protection, (2) care and use of laboratory animals, (3) clean air, (4) pure water, and (5) patents. After submission of agency positions, OMB should advise the President on the final selection of cognizant agency to each area.

17. The suggestion to consolidate the Federal Government's programs of enforcement of equal employment opportunity, civil rights and affirmative action is attractive although the problems which need to be addressed are too broad and complex to be included as a mission of this Task Force with the current time frame. For example, there is overlapping among various antidiscrimination legislative provisions, Executive Orders, and their implementing regulations designed to prevent discrimination by Government contractors, grantees and employers, public and private. These legislative provisions and Executive orders are ad-

ministered by several Federal agencies. This situation, in some instances, leads to undue burden in the form of duplication of enforcement activities which wastes the resources of all parties and impedes effective enforcement. Civil rights enforcement and the administration of regulations have been perceived in some instances as imposing unreasonable burdens. We have examined the various civil rights regulations and instructions and have determined that there is no significant redundancy in recordkeeping and reporting requirements.

The Task Force recommends that the President form an appropriate group of knowledgeable persons from all relevant agencies and representatives from selected universities and colleges who have expertise in these areas to be convened by February 1977 to explore this complex problem under the chairmanship of a distinguished leader from the higher education community who is knowledgeable, sensitive, and experienced in the field of civil rights. Adequate staff and other support must be provided in this effort. The Presidential group should prepare within a 90-day period an action plan for this consolidation, including the legislative changes necessary to assign "cognizant agency" status (see Recommendation 16).

The Task Force also recommends that the Department of Labor, the Office of Civil Rights (HEW), the Internal Revenue Service, the U.S. Commission on Civil Rights, the Justice Department and the Equal Employment Opportunity Commission coordinate their enforcement activities through a memorandum of understanding.

18. The Federal Government permits recipients of grants and other agreements to purchase nonexpendable personal property. This property must, under OMB Circular A–110, be accounted for if the purchase price of an item is $300 or more. The property management function of the recipient institution involves considerable effort in maintenance of unit records on: the item's description; serial number; source of purchase; acquisition date; cost; location; condition, use; date this information was reported; and ultimate disposition data including sales price, method used to determine fair market value, and other characteristics. In addition to creating a record on each such item of property purchased for $300 or more, a complete physicial inventory must be taken at least biennially; a control system must be established to prevent loss, damage or theft with full investigation and documentation in the event of loss, damage or theft; and adequate maintenance procedures must be established to keep the equipment in good condition. In short, higher education institutions pay a very great addition price (i.e., burden) when they agree to purchase even rather modestly priced equipment with Federal money.

These provisions of OMB Circular A–110 are, of course, designed to assure proper stewardship of property acquired at Government expense. The question has been raised, however, as to why the $300 level has been set. An estimate by the National Association of College and University Business Officers indicates that if the accountability level were raised from $300 to $1,000, there would still be accountability under Circular A–110 for about 84 percent of the dollars represented by this nonexpendable equipment category, but the number of items to be handled as described above would drop 66 percent.

It should be noted that an item of equipment which costs less than $1,000 becomes the institution's property without reimbursement to the Government when there is no further use for it on Government projects. Circular A–110 appears to be interested in controlling the item under $1,000 by extensive recordkeeping, handling, reporting requirements only for the duration of particular projects.

The Task Force recommends that the Financial Management Branch, OMB, change its Circular A–110, Attachment N, Section 2.c. to define "nonexpendable personal property" to include that which is purchased for $1,000 or more, rather than the current $300 level. In this way, a substantial amount of property management and recordkeeping responsibility will be lifted from universities and colleges.

19. Significant amendments to the filing requirements for exempt organizations were enacted as part of the Tax Reform Act of 1969. At that time, the Internal Revenue Service agreed to accept from a variety of exempt organizations, including universities and colleges, their own substitutes for the detailed financial information required in Form 990, Part II in lieu of a completed Form 990. In 1975, IRS determined that it could no longer accept substitutes for two reasons: (1) a significant lack of uniformity in the way financial records were main-

tained and reported, and (2) the development within IRS of criteria utilizing items from Form 990 to be aplied by computers in the selection of returns for audit. For the past eighteen months, the National Association of College and University Business Officers (NACUBO) and its counsel have met with the IRS in an attempt to find an acceptable compromise. The institutions believe that completion of Part II of Form 990 would require them to keep their financial records in a way that often conflicts with recognized accounting standards developed and approved for use by universities and colleges. As a direct result of these negotiations, the Internal Revenue Service has agreed to certain changes on the Form 990 for 1976 and will review instructions for completing the 1975 and 1976 forms prepared by NACUBO for dissemination to its membership.

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(Chairman, Robert Wright)

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

REPORT OF THE SECRETARY'S WORK GROUP FOR CONSOLIDATION AND SIMPLIFICATION OF FEDERAL REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

I. INTRODUCTION

As the Federal Government has increased its regulation of business type activities and expanded its concern with social programs, and as it has moved from one base to another in providing financial support for higher education, both directly and indirectly, colleges and universities have found their relationship with the Federal Government becoming more and more strained. From the viewpoint of the institutions, annoyances have grown to major issues; federal regulations have become costly and excessive intrusions into the internal operations of institutions; the acknowledged federal "interest" which accompanies federal money has become the basis for punitive rules and regulations imposed on all institutions. In truth, a onetime mutually supportive attitude has become an adversary relationship.

The changes in the relationship between the Federal Government and other institutions is not limited to higher education. The cumulative effect—both individually and institutionally—is seen by society as unwarranted instrustion and undue burden imposed either by Congress or by administrative agencies. There are, of course, differences of opinion with respect to the policies and priorities established by Congress. But the arena of major concern for institutions is administrative—the seemingly untrammeled and gratuitous interpretations and the complex and costly implementation processes and procedures used in the application of legislatively established policies to institutions of higher education. Departments and agencies have a special responsibility in the implementation of statutes by virtue of the administrative role in the writing of regulations. Regulations are essential in bridging the respective legislative and executve responsibilities for establishing policy and for carrying out the intent of that policy. Unfortunately, those who write the administrative regulations have, over the years, assumed a defensive posture—when in doubt about legislative intent, the regulation writers include every conceivable topic, definition, area of applicability, reporting and record keeping requirement, time limit and penalty. Strong executive action is needed to reverse this arrogation of power by the bureaucracy.

Institutions of higher education are responsive to meeting their social and legal responsibilities but they also feel they must engage in defensive administration to comply with the laws and regulations.

There must be a restoration of trust between the Federal Government and the institutions of higher education. Once there is established an environment of mutual trust, openness in communication, and mutual desire to meet common goals, progress can be made.

The Inter-Agency Task Force should view its larger mission as an effort to increase the involvement of those affected toward the common goals of reducing complexity and costs to institutions and to the Federal Government. The immediate mission of the Task Force is to address the recommendations presented here.

The recommendations to the Task Force provide examples of Federal agency initiatives which will elicit the positive support and cooperation of the higher education community.

Some of the recommendations entail significant organizational and procedural changes. Others identify specific issues which may be immediately resolved.

The issues of paperwork addressed in these recommendations are those that are most unique to higher education. There are other significant paperwork burdens that are common with other organizations. These would include OSHA, and Social Security. Proposed regulations, such as Section 504 affecting the handicapped, have not been covered; although these would be a proper subject for Task Force consideration.

II. RECOMMENDATION

Recommendation One:

The Inter-Agency Task Force should suggest a single agency within the Government to be designated as the collector, disseminator, and repository for all general information statistics for higher education. This agency should have the necessary staff and equipment to process the data inputs and to provide retrieval systems with the capability of furnishing such data to all users in a timely fashion.

This agency shall be responsible for establishing the data definitions to be used in informational reporting, after proper consultation with other affected agencies, users and data providers.

The single agency must have the resources—personnel, hardware, software—necessary to carry out effectively the responsibilities of a single-source agency.

The single agency shall disseminate in timely fashion such summaries, aggregations, or other arrangements of the data as may be required by Congress and by the Executive Branch in the consideration of policy issues.

The single agency shall also disseminate in timely fashion to the providers of data, reports at the levels of detail necessary for effective use at the institutional level. Non-Federal organizations shall have access to the statistical/informational data.

Institutions should be presented with the appropriate portions of the standard survey instruments no more frequently than once a year, at a date reasonable to give sufficient advance notice to allow preparation of information. Returns of the surveys should be at different times during the academic year, related to when the data normally become available.

Recommendation Two:

The Task Force should require all Federal agencies currently collecting data from institutions of higher education to examine all required reporting in terms of appropriateness, necessity, reasonableness, and duplication. These agencies should identify for the Task Force the statutory basis or the administrative regulations requiring the data, reports or institutional record keeping. These agencies should provide illustrations of actual uses of the data. If no current valid use can be demonstrated, the Task Force should, for administratively imposed requirements, request the appropriate Secretary of a Department or head of an independent executive agency to have the reporting or record keeping requirement dropped and to have the regulations amended accordingly. If the requirement is statutory, the Task Force should request the appropriate Secretary or head of an agency to notify Congress that the data or record keeping are not serving valid functions and to request Congress to amend the statute.

Recommendation Three:

The Task Force should identify immediately, as an interim measure, the duplication in the reporting required of institutions of higher education, and develop procedures which will eliminate duplicative paperwork for respondents.

Recommendation Four:

The Task Force should review the processes by which administrative regulations and reporting requirements are imposed on institutions of higher education. Processes must be established which include appropriate consultation on legislative intent, agency notice of intent to establish regulations, pre-regulation consultation with the affected institutions and/or their professional associations to obtain advice and professional judgment on the various alternatives for regulations leading to effective and reasonable implementation of the statute, consideration of costs and impact, open hearings, agency response to comments, and use of clear English.

Recommendation Five:

The Task Force should request the Office of Management and Budget to more clearly identify the real "burden" on institutions of higher education by requiring sponsors of forms presented for clearance:

(1) to identify the items duplicated in other Federal survey or reporting forms completed by the affected institutions of higher education;

(2) to spell out more realistically the man hours required to obtain the necessary data and to complete the forms;

(3) to identify in detail the types of internal institutional record keeping necessitated by the reporting form; and

(4) to reasonably estimate the additional man hours required for this internal record keeping and to include this figure in the total burden.

Recommendation Six:

The Task Force should recommend extension of the cognizant agency concept in order to reduce overlapping and conflicting regulations among agencies.

Under this concept, a single agency is assigned responsibility for issuing and administering regulations on a particular topic. As in the case of contract compliance with EEO procedures, different agencies may be assigned to different sectors, but in any case all of higher education would be under a single agency's cognizance for any given topic.

The Inter-Agency Task Force should examine various areas to determine whether they lend themselves to this technique or whether there are *necessaery* agency differences in approach to any of the areas. The following are examples of topics that could be examined:

the protection of human subjects;
care of laboratory animals;
management and control of property acquired under grants and contracts;
clean air;
water pollution;
nondiscrimination (in addition to contract compliance);
patents, particularly institutional patent agreements.

Recommendation Seven:

The Task Force should, throughout its deliberations, search for ways in which the federally imposed burden on small institutions can be alleviated. We suggest that the test of materiality might be applied to frequency of reporting and to the detail required in record keeping and reporting. We suggest that the Task Force also consider simplification or consolidation of application forms for grants and any other means by which presently applied complex procedures may be made manageable for small institutions.

Recommendation Eight:

The Task Force should define the responsibility of the Federal Government for providing assistance to institutions in meeting the requirements imposed by statutes and by regulations. After consultation with the appropriate professional groups or institutional representatives who are knowledgeable in the area, agencies should provide clear, concise informational materials in advance of the initiation of record keeping requirements and reporting deadlines. When new data bases are required or significant changes are mandated for existing data bases, consideration should be given to costs and, when possible, the costs should be borne by the requesting party.

Recommendation Nine:

The Task Force should endorse the principle that when higher education does have generally accepted standards and definitions (for example, financial accounting), such standards be accepted by Federal agencies in the process of developing requirements for record keeping and reporting. When generally accepted standards are not in place, institutions should be consulted prior to the imposition of regulatory requirements.

Recommendation Ten:

When there is a clear need for special information for the legislative or executive policy and decision-making processes, the Task Force should assure the use of proper sampling techniques, one time rather than recurring surveys, voluntary rather than mandatory approaches, cooperation with professional associations, or techniques designed to minimize data collection.

Institutions asked to participate in such special purpose information surveys should be informed as to the authority for the request and the use to be made of the information. Selection of institutional participants should be made in ways which will assure distribution of the burden without calling on all institutions or on any one institution for all surveys. Design and implementation of such surveys should be the responsibility of the designated single agency.

Recommendation Eleven:

The Task Force should assemble the antidiscrimination regulation and streamline redundancy to the extent possible by the Executive Branch, and prepare legislation necessary to efficiently consolidate those areas which cannot be dealt with administratively. Antidiscrimination regulations affecting higher education are promulgated by four separate agencies. Legislation authorizing these efforts has evolved over time, and the result has been redundancy in many areas and "patch-work" coverage in others.

Recommendation Twelve:

The Task Force should determine the extent to which evaluations have been made of the usefulness of the institutional record keeping requirements entailed in Federal time and effort reporting and in documentation of cost sharing. The Task Force should make recommendations with respect to elimination or modification of such requirements, using information obtainable from studies such as that made by the Goode Committee in 1968.

Recommendation Thirteen:

The Task Force should request IRS to permit private institutions to submit HEGIS financial data to IRS in lieu of Part II of Form 990, as they had done prior to the change in IRS practice. IRS collects Form 990, Part II, only from private institutions and this limits the statistical use of the information. Furthermore, there has not been satisfactory justification by IRS for the recent addition of this reporting requirement.

Recommendation Fourteen:

We commend to the attention of the Task Force OMB Circular No. A-110 establishing simplified administrative requirements for grants. The Task Force should give consideration to ways to extend the coverage of A-110 to the type of contracts performed in colleges and universities.

Recommendation Fifteen:

The Task Force should make two or three case studies of the unusually burdensome reporting requirements which have been imposed directly by legislation and which therefore are not amenable to relief by administrative action. The purpose of such case studies would be to demonstrate to the appropriate Congressional Committees the real world burdens which have been created—often unintentionally—by Congressional action. Possible case studies might be of ERISA or of the Buckley Amendment. Remedial legislation might result from this process.

Mr. HANNAFORD. If no one wishes to interrupt for questioning, we will now proceed with Mr. Nyquist.

STATEMENT OF EWALD B. NYQUIST

Mr. NYQUIST. Thank you, Mr. Chairman, and members of the committee.

I am Ewald B. Nyquist, president of the University of the State of New York and commissioner of education. I appreciate the opportunity to appear before the committee to comment on the effects of Public Law 94-502 and the interpretation given to certain crucial portions of this legislation by the Veterans' Administration.

Let me say at the outset that I think of education as a national concern, a State function, and a local operating responsibility. There should be a creative, three-way interplay linking Washington with State agencies, and State agencies, in turn, with local institutions. In the scheme of things, the Federal Government should not make decisions that can be made more efficiently by the States. Nor should the States make decisions that can be made more efficiently by or at the local level. However, it is also a cardinal tenet with me, based on our Anglo-Saxon legal traditions, that no one has a right to be as bad as he wants to be. Therefore, if people at the local or institutional level fail to set high enough standards or act irresponsibly, then constraints are bound to be handed down from above.

I am well aware of the problems that led to the changes in law and of the concerns of this committee to prevent abuses in the utilization of the GI bill benefits for postsecondary educational pursuits. With the number of students of traditional college age steadily shrinking because of the so-called birth dearth or baby bust, if you will, many educational institutions are beating the bushes for tuition-paying students. Unfortunately, some of them are using unethical, if not illegal, come-ons to pump up sagging enrollments. What we have in some cases is a flagrant example of unscrupulous entrepreneurs—I would not call them educators—enrolling unwary students in order to collect the financial benefits these students receive from State and Federal Governments. There is no question that these practices must be stopped and measures taken to prevent their recurrence.

There is also no question in my mind that the overwhelming majority of educational institutions in this country have high standards and they serve their students exceptionally well. The small number of violators does not justify the onerous blanket sanctions on all colleges as are presently being imposed by the Veterans' Administration. It is my belief that the present actions of the Veterans' Administration are not only arbitrary and capricious, they totally violate due process, impinge upon the sovereignty of the States and usurp the rights of colleges and universities to determine their own academic policies.

As we address the issues before us today, we must keep in mind several questions. What is the purpose of the GI bill? Will the application of these new rules contained in Veterans' Administration circulars inflict immeasurable harm on the Vietnam-era veteran at a time when he or she needs all the support and encouragement this Nation can give? In view of the myriad problems already facing the Vietnam veteran, has the Veterans' Administration devised academic standards for veterans far in excess of those applicable to the rest of our college students?

I should now like to address myself to some of the specific problems created by the recent flood of Veterans' Administration circulars, revised circulars addendums and directives, most of which have tremendous implications for the academic policies and procedures of the Nation's colleges.

Under the heading of academic credit versus contact hours, I am well aware that in some instances the so-called time-shortened programs have been abused, but it is an educationally viable concept. I consider it the responsibility of my department to closely evaluate and monitor all such programs. In view of the variety of educational needs of the various segments of our society and the fact that there are many excellent examples of valid educational programs utilizing this nontraditional concept, I would never propose a system that attempted to make all postsecondary programs fit a common mold.

Quality education can and does result from a variety of approaches. I, therefore, object most strenuously to the Veterans Administration rule that requires 1 contact hour per week per credit for a minimum of 15 weeks a semester, or a minimum of 10 weeks a quarter.

The Veterans Administration is saying that the educational value of college credits awarded can be measured by—solely by the minutes a student sits in a classroom. Notwithstanding the fact that the law makes no provision for the Administrator to exercise such judgment relative to degree programs, this requirement should be immediately rescinded.

I strongly urge that evaluation of degree programs, including the format and methodology utilized, be restored in full to the States and the regional accrediting bodies.

Under the heading of the 2-year rule—the application of the 2-year period of operation rule to branches and extensions of public institutions located outside their taxing jurisdiction and to branches and extensions of independent institutions located beyond normal commuting distance warrants serious reconsideration. Three circulars and three addendums later, the Veterans' Administration clarification of off-campus offerings has resulted in more definition than we need. They have defined for us branches, extensions with administrative capability, extensions without administrative capability, facilities on or near a military installation, and additional facilities.

In New York State, no degree of offerings are approved for the training of veterans or any other student, whether on or off the main campus, until they have been properly evaluated and approved. I might add at this point that we are talking about programs registered under the authority of the board of regents of the University of the State of New York, a governing body established in 1784. The board of regents in New York is also a nationally recognized accrediting body, so recognized under Federal legislation by the U.S. Office of Education.

Unfortunately, those affected by this rule appear to be valid off-campus programs. Such programs, for example, are offered by two independent colleges, one founded in 1824, the other in 1841. Must these colleges establish a 2-year track record before one can judge the quality of their programs? If there are problems with some branches and extensions, then let us deal with this problem on an individual basis through a complete evaluation of curriculum, faculty, administration, and resources; not by some arbitrary mileage determinant or line on a map.

Under the heading of the 85–15 rule. In testimony offered before this committee in March of this year, a representative of the Veterans Administration stated, "The effectiveness of the 85–15 rule is difficult to document at this time." This may be partially due to the fact that the original appendix H required a team of CPA's and/or mathematicians to implement the required calculations. We then received, in quick succession, appendix H, revised, and change 1 to appendix H, revised.

Our colleges and universities are faced with a computational nightmare with absolutely no evidence to indicate any correlation between quality of education and percentage of veteran enrollment.

Programs of education approved by the State Approving Agencies as educationally sound and in full compliance with the provisions of law should be available to all students. The inclusion of BEOG and SEOG students in the 85–15 computations can only penalize those schools serving primarily a disadvantaged population. And I strongly recommend the 85–15 rule be dropped, or that if it is to be retained, it relate only to Veterans' Administration-supported veterans—veteran students and be based on total school enrollment.

Under the heading of grading—appendix M—prohibition of payments for courses not counted to satisfy graduation requirements—is, in my estimation, an example of the Veterans Administration rewriting a statute. From the minimal wording of the statute, the Veterans Administration has proceeded to establish a series of definitions as a basis for implementation which have effects far in excess of the statutory language. In their definitions of punitive and nonpunitive grades, the Veterans Administration makes the assumption that unless a grade is calculated in the grade point average, it does not affect a student's overall progress toward graduation. In most schools, this is not the case. While grades such as noncredit and withdrawal are not calculated in the grade point average, they can and do affect the student's overall progress toward graduation.

Students receiving an excessive number of so-called nonpunitive grades are subject to academic probation and/or dismissal. Colleges and universities have spent considerable time, since the introduction of the standards of progress criteria, reviewing grading procedures to insure integrity of their academic standards.

An additional encroachment on the rights of an institution is the limit of dropping—drop-add periods to not more than 30 days. I recommend that we leave the establishment of grading procedures to the colleges and that the determination of a reasonable drop-add period be restored to the schools.

Under the heading of standards of progress. In appendix O—unsatisfactory progress—the Veterans Administration has taken a general portion of the law and tailored it as an instrument to substitute its judgment for the legitimate prerogatives of the institutions. The Veterans' Administration has determined, through a mathematical model, when a student should graduate and when a student should be dropped for unsatisfactory progress.

The Veterans Administration's concept of normal completion time is not supported by facts. Only about 50 percent of men and a slightly higher proportion of women complete their BA degree in 4 years. I am certainly not advocating payment for nonpursuit, but I am advocating utilization of mechanisms already in existence.

All colleges and universities in New York State have filed acceptable standards of progress which are continually monitored by the Bureau of Veterans Education, the State approving agency unit of the State Education Department.

In the spring of 1976, 314 separate standards of progress were filed with this bureau by all degree-granting institutions and institutional branches in the State. Although almost one-third of these standards were initially rejected by the bureau, through personal consultation with college administrators, acceptable standards were filed by all institutions. Copies of these standards were filed with the Veterans' Administration and no objections to these standards have been raised. It is our experience through the monitoring efforts of the bureau of veterans education that the implementation of the standards of progress has been most effective in New York State. I see no reason for this further infringement on the rights of the schools and the States.

Under the heading of a study of frustration—one of the most distressing factors in dealing with the Veterans Administration is that highly questionable practice of rewriting regulations and urging changes in the law to support decisions previously rendered.

A case in point is the regents external degree program, a nationally accredited and widely praised alternative education program. In September of 1972, officials of this program filed an application for veterans approval with the bureau of veterans education. After a thorough evaluation, the regents external degree program was approved for the training of veterans, and because this was a program housed in the department, the bureau met with Veterans' Administration officials from both the regional and central offices prior to approval to insure against any possible future criticism.

The Veterans Administration commenced payment to veterans enrolled in this program in October of 1972. In November of 1973, at the direction of the VA Central Office, payments to veterans were terminated based on their interpretation that the regents external degree program did not meet the definition of a program of education. After a year of correspondence, meetings, and submission of supporting documents, the Veterans Administration in December of 1974, justified its case by rewriting regulation 14280. They prescribed that an independent study program must make provision for interaction by various methods between faculty and student. Since the regents external degree program met this criterion, the approval remained in force.

After all other means had failed, I directed my counsel to prepare papers to take legal action against the Veterans Administration. The case was heard in Federal district court in March of 1976. The judge ruled in chambers in our behalf and directed that we file certain catalog clarifications with the State approving agency. Upon transmittal of the specified materials by the State approving agency to the Veterans' Administration regional office, payments were to be recommended.

On November 2, 1976, the State approving agency transmitted the required materials to the New York Regional Office with a copy of its letter to the institution indicating the approval was amended in accordance with the court stipulation. Payments were not restored, but rather the revised approval was forwarded to the Veterans Administration Central Office. For a period of 3 months nothing happened. Notwithstanding the fact that the terms of the court order required the Veterans Administration to recommence payment to enrolled veterans after the program had received a revised approval from the State approving agency, the State approving agency was advised that due to an opinion rendered by the central office, no payments would be forthcoming. This opinion was based in part upon the conclusion of the central office that the insertion of the term, "academic instruction," in the revised title 38, United States Code, section 1652F, would preclude the payment of benefits.

In conclusion, it is disconcerting to see the present adversary relationship between the Veterans Administration, States, and many institutions, in view of the consistently excellent delineation of responsibilities contained over the years in the numerous laws relating to veterans education.

Sections 1771 and 1772 of title 38, United States Code, assign clearly the evaluation and approval of educational programs to the State approving agencies. Section 1773 stresses the essential need for cooperation between the Veterans' Administration and the State approving agencies. Section 1782 would appear to specifically prohibit the kinds of control now being exercised by the Veterans' Administration over State approving agencies and educational institutions.

In 1966, the 89th Congress included in an analysis of the cold war GI bill the following statement, "The system of approval of educational institutions by State approving agencies, which has proved its worth in connection with the World War II and Korean GI bills and the War Orphans Educational Assistance Act, has been continued with respect to the new program. The committee looks to the approval function as one of the basic safeguards against abuse and therefore expects that these approval and supervisory efforts will be fully supported by the Veterans' Administration."

I have appended for your information a more technical discussion of some of our concerns in the administration of veteran student assistance programs.

[The appendix follows:]

APPENDIX

Issues of Concern in the Administration of Veterans' Student Assistance Programs

I. REGULATION ISSUES

A. Measurement for payment purposes, VA Regulation 14272(D)

Legal authority.—None. Section 1788, Title 38, US Code, Measurement of Courses, states as follows: "(a)(4) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis shall be considered a full-time course when a minimum of 14 semester hours or the equivalent thereof, for which credit is granted toward a standard college degree, is required, except that where such college or university certifies, upon the request of the administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than 14 such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than 14 such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, than such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than 12 semester hours or the equivalent thereof, then 12 semester hours or the equivalent thereof shall be considered a full-time course:" the same section continues "(b) The Administrator shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter or chapter 34 or 35 of this title."

VA implementation.—On February 9, 1977, the Veterans Administration issued DVB Circular 20-77-16. This Circular states. "1. Effective October 26, 1976, VA Regulation 14272(D) was amended to include: In no case will a course be measured as full-time when less than 14 standard class sessions per week (or 12 standard class sessions if 12 credit hours is full time at the school) are required. (See VA Regulation 14200(G) which defines "standard class session.") Likewise a proportional number of weekly standard class sessions is required to support an assignment of part-time training."

"a. In addition to the meeting the credit hour measurements of VA Regulation 14272, a course must also schedule a sufficient number of contact hours to support the assigned training time. Weekly contact hours, excluding any break periods, should be used to determine training time measurement if individual class periods are longer than a standard class session."

"2. The above principle applies to all collegiate undergraduate courses measured on a credit hour basis regardless of whether they are offered pursuant to a standard semester or standard quarter system. Accordingly, measurement of all applicable courses for academic terms beginning on or after October 26, 1976, are subject to this regulatory provision. Where applicable, overpayments should be created from the beginning of such terms and school liability considered. (Notwithstanding the effective date of this regulatory amendment, this change merely reflects a certification of long-standing Veterans Administration measurement policy rather than new policy.) To further clarify this new policy which the VA insists is not new, the VA refers to definitions contained in VAR 14200(B)(3), "Quarter, a division of the ordinary school year, usually a period from 10 to 13 weeks long." (B)(4), "Semester, a division of the ordinary school year, usually a period from 15 to 19 weeks long." and (G), "Standard Class Session. The term means the amount of time a student is required, in a regular quarter or semester, to spend in class per week for one quarter or one semester hour of credit. Normally a standard class session is not less than 1 hour (or 50 minute period) of academic instruction, 2 hours of laboratory training, or 3 hours of workshop training.'"

Comments.—The Veterans Administration is now requiring one contact hour per week per credit for a minimum of 15 weeks a semester, or a minimum of 10 weeks a quarter. The next logical step would be mandatory attendance. There is no provision in the law that gives the Administrator of the VA the power to define a full-time undergraduate course. He can only define a part-time course. If the Congress had intended to give him the power to define a full-time course, it would have done so explicitly as it has in the second phrase of the statutory language with respect to other types of courses, and as it has with respect to part-time courses.

B. Appendix M—Prohibition of educational assistance payments for courses not counted to satisfy graduation requirements

Legal Authority.—Section 1780(a), Title 38, US Code, "no amount shall be paid (3) to any eligible veteran or person for auditing a course: (4) to an eligible veteran or a person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless the Administrator finds there are mitigating circumstances";

VA Implementation.—From the minimal wording of the statute, the VA has proceeded to establish a series of definitions as a basis for implementation which have effects far in excess of the statute language .The VA begins a section on definitions by stating, "Proper implementation of these statutory provisions will be facilitated if the following concepts are used in determinations concerning benefit payments." A non-punitive grade is described as any grade excluded from determination of programs toward fulfillment of graduation requirements. As an example, they cite any grade notaffecting the grade point average. It is concluded, therefore, that a course for which a non-punitive grade is assigned is thus equivalent to an audited course. A punitive or failing grade is distinguished from a non-punitive grade by the fact that it is considered in determining overall progress to graduation in that a penalty is exacted on a school graduation requirement such as grade point average. Drop-add periods established by the school may not exceed 30 days. If a veteran student drops a course after this period or receives a non-punitive grade, benefits will be terminated effective the first date of enrollment unless mitigating circumstances are found.

Examples are given of possible mitigating circumstances and procedures are established for reporting same. Schools are encouraged to show mitigating circumstances when reporting training time reductions. Students will be notified of pending actions and given 30 days to support a contention of mitigating action before reduction or termination of benefits will be made effective.

Comments.—In the definitions of punitive and non-punitive grades, the VA makes the assumption that unless a grade is calculated in the grade point average, it does not affect a student's overall progress toward graduation. A number of our schools have indicated that this is not the case. While NC and W grades are not calculated in the grade point average, they can affect the student's overall progress toward graduation. Students receiving an excessive number of NC's or W's are usually subject to academic probation and/or dismissal. Colleges and universities have spent considerable time, since the introduction of the VA's Standards of Progress criteria, reviewing grading procedures to insure integrity in their academic standards. Now the VA has decided to dictate to the institutions the manner in which they administer their education standards. While NC grades have on occasion created a problem in the past, their utilization could be monitored by both the SAA and the VA to prevent abuses. It is strongly recommended that the VA leave the establishment of grading procedures to the institutions. An additional encroachment on the rights of an institution is the VA's attempt to limit drop-add periods to not more than 30 days. The determination of a reasonable drop-add period should be restored to the schools and the statement (not to exceed 30 days) removed from the Appendix.

C. Appendix O—Unsatisfactory progress

Legal Authority.—Section 1674, Title 38, U.S. Code, "Unless the Administrator finds there are mitigating circumstances, progress will be considered unsatisfactory at any time the eligible veteran is not progressing at a rate that will permit such veteran to graduate within the approved length of the course based on the training time as certified to the Veterans' Administration."

VA Implementation.—The VA has made the determination as to what is satisfactory progress for all colleges and universities in the nation based upon this section of law.

They have decided that 60 semester hours are normally required for an Associates degree and 120 semester hours for a Bachelors degree. From there, they have established that a student taking 15 credit hours per term should graduate in 4 years and a student taking 12 credit hours per term should graduate in 5 years. Each time a veteran student fails to satisfactorily complete a course, the school must make a determination as to whether that student's progress is unsatisfactory using the following variables: (1) the total credit hours needed to graduate, including the number to be completed or otherwise made up; (2) the number of terms remaining based on the approved length of the course and the student's rate of pursuit; and (3) the maximum credit-hour loss allowable per term based on school policy.

When a school determines that a student's progress is unsatisfactory under this provision, they must report it to the VA along with any mitigating circumstances. The VA will make the determination on mitigating circumstances. Under this provision, a student's progress will be considered unsatisfactory even if the student otherwise meets the regularly described standards of the school, including the minimum passing grades or required GPA or average grade.

Comment.—The problem in this area is the interpretation of the law. Unless abuses are evident, the determination of unsatisfactory progress should remain the prerogative of the school under the supervisory review of the State Approving Agency. All colleges and universities in the State have filed, within the last year, acceptable Standards of Progress which are continually monitored. There is no reason for this further infringement on the rights of the schools by the VA. The VA should not burden schools with a responsibility for calculating progress in a manner in conflict with their own institutional standards. Additionally, the VA's concept of normal completion time is not supported by statistics. In reality, only about 50 percent of men and a slightly higher proportion of women complete their BA degree in four (4) years.

D. Appendix P—Miscellaneous provisions of Public Law 94–502

Legal authority.—Section 1775, Title 38, U.S. Code, "In making application for approval, the institution shall transmit to the State Approving Agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the school. The catalog or bulletin must specifically state its progress requirements for graduation and must include as a minimum the information required by sections 1776(b)(6) and(7) of this title." Section 1776(b)(6), "Institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress and a description of probationary period, if any, allowed by the institution, and conditions of re-entrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution); (7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.

VA implementation.—In Section 6 of Appendix P, the VA has copied the text of the statute in its entirety. They have added to this two key implementing points. First, the next catalog issued by each institution must contain all of the required material and must be certified as true and correct. Two, the school must maintain adequate records as prescribed by the SAA relating to progress or grades and must maintain adequate records showing satisfactory standards relating to progress and conduct are enforced.

Comment.—This entire section relates to the "standards of progress" concept and the primary role of the State Approving Agencies in the area of review, evaluation and monitoring of these standards. The tenets of the VA contained in "M" and "O" are not contained in this section of the law directly related to the institutions' academic policies as accepted by the SAA. This is precisely the key to the present encroachment argument. If the law considers the evaluation of academic standards the role of the SAA, then what justification is there for the VA to try and supplant the already approved standards with their own version? In New York State in early 1976, the Bureau of Veterans Education acting as the SAA approved and submitted to the VA Regional Office 312 separate "standards of progress." The VA reviewed and concurred in our judgment in all cases and submitted copies of each to the VA Central Office. It is of further interest to note that approximately 100 of these standards were rejected on their first submission by the SAA.

II. LEGISLATION/REGULATION ISSUES

A. Appendix C—Period of operation of a course—2-year rule

Legal Authority.—Section 1789, Title 38, US Code, "(a) The Administrator shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an educational institution when such course has been in operation for less than two years. (c) Notwithstanding the provisions of subsection (b)(1), (2), (3), or (4) of this section, the provisions of subsection (a) shall apply to any course offered by a branch or extension of (1) a public or other tax-supported institution where the branch or extension is located outside of the area of the tax jurisdiction providing support to such institution; or (2) a proprietary profit or proprietary nonprofit educational institution where the branch or extension is located beyond the normal commuting distance of such institution."

VA Implementation.—The VA's initial implementation of the extension of the two-year rule involved requiring all institutions to certify to the VA a list of all branches and extensions, the courses and curricula offered at each and the length of continuous operation for each course or curriculum. The second step in the process was to have been the referral of all such locations to the State Approving Agencies. This step was never completed. The third step involves the initiation of approval action by the SAA on all off-campus locations. The VA has set the end of May 1977 for an interim review at which time the SAA will be requested to estimate the date of completion for each approval. A final review will be made August 1, 1977, resulting in no new enrollments or re-enrollments if an amended approval has not been received.

Comments.—The implementation of this authority has bogged down. The appropriate steps have not been completed by the VA regional office. Since in New York State we are probably dealing with over 500 off-campus locations, it would take the eight (8) persons at least five (5) months to accomplish this review if this was their sole function during this period. To date, we have approved less than a dozen locations. It is entirely possible that this situation will result in a tremendous overpayment problem.

B. Appendix H (revised)—Extended 85-15 percent ratio requirements

Legal authority.—Section 1673(d), Title 38, US Code, "The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Administrator finds that more than 85 percentum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, by the Veteran's Administration under title and/or by grants from any Federal Agency. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines it to be in the interest of the eligible veteran and the Federal Government."

VA implementation—An 85–15 percent ratio must be computed for each course of study or curriculum leading to a separate approved educational or vocational objective. Courses or curricula which are offered at separately approved branches or extensions must have an 85–15 percent ratio computed separately from the same courses offered at the parent institution. Pursuit of a course or curriculum that varies in any way, although it may have the same designation as another curriculum, will require a separate 85–15 computation. The 85–15 computation must be made for each specific curriculum: e.g., B.S. in Electrical Engineering. After the initial computation for a course, continuing 85–15 percent ratio certifications for each course must be received by the VA no later than 30 days after the beginning date of the term or before the beginning date of the next term, whichever occurs first. New enrollments of eligible veterans in a course will be processed based on the most recent available computation and certification of the 85–15 percent ratio. Upon receipt of information that either the initial or any subsequent computation shows that the 85 percent limitation is not met for a course, processing of new chapter 34 enrollments in that course will be discontinued immediately.

Two temporary waivers are now in force. A temporary waiver has been granted to exclude counting recipients of BEOG and SEOG as federally supported students for purposes of 85–15 percent ratio requirements. This temporary waiver ends June 30, 1977. The second grants station directors authority to waive 85–15 percent computations to institutions which certify that 35 percent or less of their enrollment receives Veterans Administration educational assistance. Such certifications must be provided to the VA on a continuing basis. While this waiver is not specified as temporary, the following passage indicates that the inclusion of BEOG and SEOG computations after June 30, 1977 will apparently negate this waiver. At that time, a school may waive computation of the 85–15 percent ratio for any course offered by a school if 35 percent or fewer of the students in the course receive VA educational benefits and the percentage of VA-supported students in the course, plus the percentage of the school's total enrollment receiving BEOG and SEOG, totals 85 percent or less.

.There is an additional waiver possibility for courses not meeting the 85–15 percent requirement generally as a result of high BEOG and SEOG enrollments. The documentation required and procedures involved would almost certainly discourage a school from seeking this relief.

Comments.—There is no evidence provided to indicate any correlation between quality of education and percentage of veteran enrollment. Programs of education approved by the State Approving Agencies as educationally sound and in full compliance with the provisions of the law should be available for all students. The inclusion of BEOG and SEOG students in the 85–15 computations can only penalize those schools primarily serving a disadvantaged population. The procedures established by the VA will create an expensive, time-consuming burden on all institutions to arrive at an end result which proves nothing. It is recommended that the Administrator, through the authority granted to him in the statute, apply the 85–15 percent ratio only to VA-supported veteran students and be based on total school enrollment.

C. *Appendix X—Definitions—Institution of higher learning and standard college degree*

Legal authority.—Section 1701(a), Title 38, US Code, "(10) For the purposes of this chapter and chapter 36 of this title, the term 'institution of higher learning' means a college, university, or similar institution, including a technical or business school, offering post-secondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State laws to grant an associate or higher degree. Such term shall also include a hospital offering educational programs at a post-secondry level without regard to whether the hospital grants a post-secondary degree. (11) For the purposes of this chapter and chapter 36 of this title, the term 'standard college degree' means an associate or higher degree awarded by (A) an institution of higher learning that is accredited as a collegiate institution by a recognized regional or national accrediting agency; or (B) an institution of higher learning that is a 'candidate' for accreditation as that term is used by the regional or national accrediting agencies; or (C) an institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs. For the purpose of this section, the accrediting agency must be one recognized by the Commissioner of Education under the provisions of section 1775 of this title."

VA implementation.—The VA definitions are the same as those contained in the law. A point is made that this is the first time "institutions of higher learning," is defined in law or regulations. The remainder of the Appendix deals with procedural questions involving schools in states which do not grant degree granting powers and schools which will not qualify as institutions of higher learning under this new statute.

Comment.—The revised 38 USC 1652(f) defines an institution of higher learning as "a college, university . . . offering postsecondary level academic instruction (emphasis added) . . ." It is assumed that the term "instruction" includes independent study as defined by the Veterans Administration in VAR 14260, and that "instruction" is not limited to formal classroom instruction. In New York State and elsewhere, there are many colleges and universities authorized to confer degrees and accredited by nationally recognized associations, which do not provide classroom instruction. The VA definition of an institution of higher learning must not be interpreted so as to prohibit students in those non-traditional universities and colleges from receiving veterans benefits.

And I thank you for this opportunity to appear before you today.

Mr. HANNAFORD. Thank you, Mr. Nyquist. If no one has anything to direct particularly to your remarks, we will hear from Mr. John Connolly—the other John Connolly.

STATEMENT OF JOHN J. CONNOLLY

Mr. CONNOLLY. That is how I have been referred to.

First, may I express my appreciation for the opportunity to testify before the Committee and to share my concerns and those of other colleges and universities and particularly community colleges with you.

Before I begin my testimony, I wish to submit a letter as testimony, on behalf of Chancellor James Kelly of the State University of New York. I will submit that for the record.

[Statement follows:]

STATE UNIVERSITY OF NEW YORK,
Albany, N.Y., May 28, 1977.

Hon. OLIN TEAGUE,
Chairman, Education and Training Subcommittee, House of Representatives, Veterans Affairs Committee, Cannon House Office Building, Washington, D.C.

DEAR MR. TEAGUE: I greatly appreciate this opportunity to submit remarks to the Subcommittee on the issues raised for educational institutions by current laws and regulations pertaining to veterans' educational benefits. My viewpoint is that of both a University administrator and a former Federal administrator in the Department of Health, Education and Welfare who has had experience in implementing legislation and in the administration of ensuing regulations affecting institutions of higher learning. That experience gives me an opportunity to view institutional/governmental relations from both sides of the street.

One of the most important factors in the current controversy over Veterans Administration regulations and operations is that the V.A., the Congress and the institutions that serve veterans share a common goal: enabling veterans to use the benefits that they have earned through military service to obtain an education, and to do this in ways that achieve the purposes for which the benefits are provided.

The State University of New York was created in 1948, partly in response to the need for educational opportunities for returning veterans of World War II. It is composed of 64 campuses located throughout New York, 34 State-operated campuses and 30 community colleges outside of the City of New York which are jointly governed and financed by localities and the State. (My colleague, John Connolly, President of Dutchess Community College, will testify before your Subcommittee on May 19, will tell you more about our community colleges and their significant role in serving the educational needs of veterans.)

In this 1976–77 academic year, the State University enrolled almost 23,000 veterans who receive G.I. benefits, most of them (21,700) as undergraduate students. One-third of them (over 7,200) were enrolled in the undergraduate and graduate programs of the State-operated campuses; two-thirds (over 15,000), were in community colleges. (This number—23,000—by the way, is equivalent to the total enrollment of the University of Iowa; yet, it is only seven percent of State University's total enrollment.)

Like other institutions of higher education, the University seeks to assist veterans to obtain the education they may have postponed because of military obligations and to make education available to assist them in returning to civilian life and making themselves employable. This obligation has been recognized in State policy. All but two of the community colleges in New York State are what is called "full opportunity" colleges: that is, they accept for admission all high school graduates of the previous year and all veterans from their sponsorship areas.

But State University students who are veterans are being disadvantaged in comparison with other students. And our ability to provide opportunity to veterans is being seriously inhibited by some aspects of the law governing the use of G.I. benefits and by some of the regulations and interpretations of the law by the Veterans Administration.

In my view, the current controversy involves three matters: (1) the difficulty in recognizing legitimate educational experiences which occur in non-traditional classroom settings, (2) the establishment of educational standards by the V.A. which may or may not be comparable to institutional standards, and (3) the imposition of burdensome reporting mechanisms which these regulations require.

Let me give you one very concrete example. In 1971 the University established a non-residential college called Empire State College. It consists of an administrative coordinating center and a State-wide network of regional learning centers. There are no dormitories nor, indeed, any campuses. The College is designed to serve (1) students of any age who wish to—and can—learn rather independently, without constant classroom attendance and supervision, and (2) students older than usual college age who, because of family or employment obligations, cannot uproot themselves to live in residence on a campus and cannot adjust their life schedules to the pre-set schedules of classroom attendance. (The average age of Empire State College students is over 30.)

Empire State College and its programs were established through a series of University and State approval processes. It is fully accredited by the Middle States Association of Colleges and Schools. Each student works with a mentor and develops an individual learning contract, or study plan, which must be agreed to by both parties. A contract for a full-time student binds him or her to perform no less than forty hours a week of learning activities—which matches or exceeds the study requirements of the University's more conventional, campus-based programs.

Yet, in spite of all this, only a few of Empire State's 200 full-time student veterans are receiving full payments from the Veterans Administration.

They have been allowed tuition and fee assistance but denied subsistence payments, on the grounds that the College is an independent study program not requiring more than one-half of its work in a formal classroom setting. This description is technically correct. Thus, Empire State's full-time veterans students are being denied full benefits because the College is what it set out to be.

Only one of the College's many protests to the New York City Regional Office of the Veterans' Administration has been successful. Just recently, one of the College's programs—Studio Arts—which includes a required Studio Semester in New York City—has been recognized as qualifying student veterans for full payments including subsistence.

Thus, virtually any student veteran who chooses to attend Empire State College full time is almost automatically disadvantaged, not only in comparison with nonveteran students but also in comparison with veterans attending the more conventional, residential campuses of the same University.

The second of my concerns, the establishment of educational standards by the V.A. which are inconsistent with accepted and appropriate institutional standards, can be illustrated by problems faced by veterans who attend institutions of higher education that use the four-course, four-credit system instead of the more traditional five-course, three-credit system. State University Centers at Binghamton and Buffalo, along with a number of other institutions across the country, including Cornell, Harvard and Yale, employ this less traditional contact/credit system. This system is in conformance with State University academic policy, and the University has developed guidelines for relationships between contact hours and credit hours, as I am sure other institutions have done. Yet, because of V.A. regulations which insist on a virtually perfect consonance between contact hours and credit hours, veterans at these campuses may not be considered full-time students in all cases.

Many of the four-credit courses generate 12 classroom sessions through three 50-minute contact periods and substantial outside reading and research. But, where they may not, veterans studying in this system will not receive the benefits otherwise available to full-time students. DVB Circular 20-77-16, which regulates measurement of credit hours for payment purposes, implies that outside research is not a valid academic activity; its requirements result in veterans being reimbursed for less than their full loads (while students receiving other kinds of financial aid may have no such problem); and it suggests that the V.A. questions the ability and responsibility of the faculties of the institutions to gauge the value of a curriculum and assign appropriate credit for work completed.

This problem has also affected veterans who participate in independent study curricula at campuses other than Empire State College and those who study in the performing arts, since courses in the performing arts do not necessarily involve a set amount of contact time. Here again the veteran is financially disadvantaged because he or she is embarked on a course of study that by its very essence cannot meet the literal test of the V.A. standards.

The Veteran's Administration may not wish to set educational policy or to interfere in educational decisionmaking by colleges and universities. But, when its regulations have the effect of saying that some courses of study are not worthy of the credits assigned to them, educational decisionmaking by the V.A. is the result.

The third of the difficulties caused by the V.A. regulations deals with problems faced by colleges and universities in meeting the administrative requirements of compliance. You have already heard a great deal from previous witnesses about the difficulties institutions are having with the 85-15 rule, the new Standards of Progress regulations, and other regulations or interpretations of the law revisions contained in Public Law 94-502. One problem for the institutions is, of course, the amount of paperwork and additional monitoring of courses and student progress required by these regulations.

The Agricultural and Technical College at Farmingdale, Long Island, is a 2-year campus offering programs leading to transfer or to employment, with a heavy emphasis on applied science and technical fields. Perhaps partly because of this emphasis, it attracts a large number of veteran students—950 this year (out of a total of enrollment of over 13,000).

Information from the campus shows the impact on Farmingdale's resources of Veterans Administration requirements:

"Instead of a basic emphasis on counseling, approximately 50 percent of the time in the Veterans' Office is now devoted to processing administrative paper work in the form of veterans' attendance records along with attendant computer printouts, plus inquiries and other forms required by the Veterans' Administration. . . . A computerized records system was deemed to be a necessity in order to process and report changes in attendance status within the 30-day period permitted under the regulations. This information had previously been reported at the end of each semester and accepted by the V.A. . . . The Coordinator . . . plus two full-time clerical assistants, are required to support [the reporting system]."

About a third of the cost of the office is being borne by the Farmingdale campus.

If the 85-15 rule waiver is not continued, the campus reports that the Financial Aids office will be required to establish two financial aid files for each curriculum, and comparisons will have to be made between the BEOG and SEOG files and the Veterans' Office files for day and evening, full-time and part-time students. According to the campus: "It appears doubtful at present that either the Financial Aid or the Veterans' Office will have sufficient staff available for this additional clerical work." These added pressures come at a time when the fiscal condition of New York State has caused financial and personnel reductions in all public agencies including colleges and universities.

The inflexible nature of recent Veterans' Administration regulations are having the effect of making every higher education institution at least potentially guilty until proved innocent. Moreover, they may not effectively accomplish the purpose of preventing abuses, certainly not in proportion to the administrative difficulties they cause and the extent to which they interfere with the appropriate roles of faculties, institutions, and accrediting bodies, and states.

The 2-year rule, for example, may in a crude way be a measure of institutional stability, and could prevent new programs being set up merely to cater to veterans students. But, it will also rule veterans out of new programs not designed solely for them, and it does not speak to the quality of the program being offered, since a young program is not by definition a poor one. Nor is it established that any educational program serving the needs of a particular clientele is necessarily of poor quality.

The 85–15 rule, if totally implemented after June 30 of this year, will say in effect that courses of study with predominant enrollments of Federally supported students, not just veterans, are of dubious quality or otherwise suspect, even in institutions having well-established reputations for quality and responsibility, and will penalize those veterans who happen to be the last to register in such a course of study.

It ought to be possible for the institutions, the committees of the Congress, and the Veterans' Administration to work together to relieve responsible institutions of much of the administrative and reporting burden by devising means to screen out from minute compliance with every regulation those institutions that have low or moderate veterans enrollments, that meet established accreditation standards, and that have good records in veterans' education.

For example, perhaps the 35 percent rule could be applied as follows:

> That, as now, if an institution's total enrollments are composed of more than 35 percent veterans, the 85–15 rule would apply separately for each formal program leading to a formal award;
>
> If an institution's total enrollments are comprised of fewer than 35 percent veterans, then the only other questions which would have to be answered would be whether or not, say, 50 percent or more of the veteran enrollment is at a branch or extension (a branch or extension of the college offering complete programs leading to a formal award) of the institution's main location. If so, then the 85–15 rule could be applied for that location and its programs. If, on the other hand, the veterans are intermingled for the most part with the rest of the student population at the main location, then no 85–15 rule or calculation need apply.

This would serve to protect the veteran from peculiar and exploitative practices. In special cases, waivers could be granted for legitimate extension operations enrolling more than 50 percent veterans.

I believe that it is essential for some dialogue about alternatives to begin as soon as possible, because of the deteriorating relationships between the V.A. and the institutions. I will cite one final campus example, from a recent letter to my office:

"The immediate result [of the revised regulations] can be characterized as a change from the previous atmosphere of mutual cooperation to what may now be considered an adversary relationship between the Veterans' Administration and the veteran. At the same time, the campus Veterans' Office and Administration have been forced by circumstances to take a position midway between these groups and to assume the role as enforcer of the regulations. These developments have all but destroyed the previous cooperative relationships between all parties."

This perception, which is most certainly not confined to one campus, should be a matter of concern to us all, particularly since it is the individual student veteran who will suffer most from these unfortunate circumstances.

We are in full accord with the V.A.'s and the Congress' objective of eliminating abuses of veterans educational benefits not only because those abuses constitute, in contemporary parlance, a "rip-off" of the Federal government but also because veterans who are provided a substandard education are not receiving the benefits to which they are entitled. But a search to prevent abuses that leads to the imposition of inappropriate (and, incidentally, out-of-date) educational standards, that deals rigidly with institutions without recognizing their diversity, and that puts the Veterans Adminisration in the position of being an educational czar in Washington, will not serve the interest of veterans either.

The institutions of higher education, and some of the educational associations in Washington, have made a number of attempts to bring their concerns directly to the attention of the Veterans Administration, although they have not as yet been successful. I continue to hope that such sessions can be arranged, and that our mutual or overlapping problems can be discussed without bickering or buck-passing. We need to discuss seriously the problems of what appropriate law in this area is, what appropriate and feasible regulations are, and where the appropriate divisions of responsibility should be between Congress, the V.A., the States, the institutions and the individual veterans. Part of our problems stem, I believe, not only from confusion and ambiguity in the law, the regulations and the rulings coming from the Veterans Administration Regional Office, but also from dislocations in the relationships of the parties. This needs the immediate attention of all of us.

Sincerely yours,

JAMES F. KELLY,
Acting Chancellor.

Mr. CONNOLLY. The testimony I am about to offer may differ somewhat from that which you have heard in past weeks. It will deal less in broad theoretical concepts of what might happen or the negative potential of the law and regulations we are discussing and will deal more in some very simple, perhaps even mundane, effects that the law and regulations have had upon one community college.

A community college, I might add, that is not being offered as an exemplary model of its genre—although I may personally believe it is that—but rather one that is similar to those in your districts, serving your constituents.

Dutchess Community College is not unlike Nassau Community College, Onondaga Community College, Long Beach City College, Cayahoga Community College, Bristol Community College, Sandhills Community College, Tarrent County Junior College, Belmont Technical Institute, Columbia Technical Institute or Golden West College. Indeed, Dutchess is not unlike over 1,200 other community colleges in this Nation which, at this time, are serving some 380,000 veteran students, more than 50 percent of all veterans now enrolled in institutions of higher education. Much of what I recount in this testimony will apply to all 1,200 institutions and to all 380,000 veteran students, and to many 4-year colleges and their students, as well.

Let me begin by responding to a question previously posed by one of the committee members to today's witnesses. That is "What is the percentage of total revenue accruing to the schools you represent that is derived from veteran students matriculating under the GI bill?"

Dutchess Community College presently serves 481 veterans. This number comprises roughly 7 percent of our total enrollment of 6,573 students—full and part time, credit and noncredit. Their tuition subsidized by the GI bill, represents approximately 2.2 percent of our total revenues. Thus, it is clear that for our college, and for most other community colleges, the tuition income from veterans is not a very significant portion of our revenues. These students are nonetheless an important part of our service and it is that service, and the problems that make it more costly and less educationally effective—and not the question of finances—which motivates our concern and my testimony.

A specific example: Veterans' Administration Circular No. 20-76-84, Prohibition of Educational Assistance Payments for Courses Not Counted to Satisfy Graduation Requirements. Veterans at many community colleges are experiencing difficulty with this directive because of new grading systems, which Commissioner Nyquist has indicated, generally labeled as nonpunitive. The VA directive assumes that grades not calculated into a grade point average do not affect progress after the VA proscribed limit of 30 days, his or her benefits will be rolled back. Our college, and many community colleges, have a very different policy which is based primarily on educational concerns. We toward a degree. In many nonpunitive grading systems, this is simply not the case. Community colleges such as Dutchess, which has a more traditional grading system, do not have this difficulty, but they and their students share a different one.

Under a similar regulation, the VA will not recognize courses which, either passed or failed, do not count toward earning a degree. The logic seems obvious and irrefutable: To prevent veterans from willy-nilly taking courses and perhaps extending their length of study or simply goofing off.

However, community colleges and their students are faced with a unique problem in this regard, one only rarely found in 4-year institutions. Many community college students have transfer, and not a degree or graduation, as their primary educational objective. As a result, many design their academic programs to suit the institution to which they intend to transfer and not the community college they presently attend. Clearly, this directive presents a serious problem to many fine students with a realistic academic objective. Should they plan an educational program to accommodate financial or educational needs? Furthermore, many community college students enter our institution with the intention of exploring their abilities, their career interests, their suitablty for higher education. This function of exploration, supported by a variety of academic offerings and student personnel services, is one of the most important functions of the community college. But veteran students are frequently prevented from exploring because they cannot afford to take a course that will not be counted toward a degree. Thus, an important educational decision is being primarily controlled by external regulation and by momentary pressures.

This situation is further complicated by a VA requirement, long dormant, that veterans must now matriculate prior to the third semester of study in order to be eligible for benefits. For a full-time student, this is entirely reasonable—for the third semester normally marks the beginning of the second half of a degree program. But what of the part-time student? For many, the third semester signals the completion of only three or four courses. These students are now being forced to make a critical educational and life decision at a time when they may not be prepared to do so. Why, I ask you, is the forcing of that decision so necessary? Once the student matriculates and is compelled to select a major, the option of exploring, so vital as an educational activity to many of them, is very firmly—and finally—removed.

It would be nice to believe that all students should know well and be firmly committed to their academic and career plans, but let us remember that college students have historically, in your time and mine, and at present, changed majors on the average of three times before graduation and that the average adult today will experience five different careers—not jobs, mind you, but careers. Why do we expect so much more from our veterans?

Another problem generated by circular 20–76–84 has important educational ramifications for our students. If a student drops a course permit students to drop courses through the 9th week of a 16-week term. Our reasoning is to give the student the opportunity to receive a midterm grade assessment and to thoroughly sample the course and, hopefully, to make an honest and extended effort to pass.

We do not believe that teaching students to quit is a good thing. But now a veteran at Dutchess is confronted with two realities. On the one hand, he or she can continue in a course and drop it without academic penalty in the 9th week, but in doing so may risk losing and having to repay veterans benefits—unless mitigating circumstances can be proven.

The other reality is that of the VA regulations which dictate that they drop the course within 1 month in order to retain full benefits—which may be the sole support of the family. The student is, thus, forced by VA regulation to make a decision which may be an educationally important one, but which will be made on primarily financial criteria. In addition, when this change was announced, we were informed that the colleges and not the VA were responsible for informing veterans of this change. The VA stated that they simply did not have the staff nor the time. I might add that I am not certain we do, either.

The VA has recently announced another change of regulation that will have a severe impact on our students and, while it may seem reasonable at first blush, demonstrates a complete lack of understanding of basic educational principles. The VA concept of education is antiquated. Its fundamental constructs seem to be imbedded in the 1940's—and much has changed since then—both for better and for worse, but nonetheless, things have changed.

The VA seems to be inclined toward an educational construct which we call by the term "seat time" or by similar less genteel terms. Those who adhere to the educational principles of seat time seem to believe that the only condition under which learning can take place, and the only possible way to measure that learning, is by assessing the amount of time a student spends on his or her seat in the classroom. This is patently absurd, but some VA regulations indicate a strong adherence to this principle.

For example, the new regulation on computation of full- or part-time status for summer session now utilizes contact hours as well as credit hours as a measure. Contact hours are simply the number of class hours for which a class meets. Colleges, recognizing that there are other important factors in learning, typically assign another indicator, credit hours, as a measure not simply of class time—or seat time—but of the total worth of the learning expected.

The outcome of these modifications is that veterans may not be able to be certified for many innovative new courses that are designed to be both educationally and fiscally productive.

These newer methods are frequently not dependent upon seat time and often result in more cost effective and educationally effective learning, mutually compatible objectives which colleges are striving to achieve in this day of restricted budgets.

It is easy to imagine the abuses this change was designed to prevent, but I can also imagine many more abuses—and educational impediments for students—it will now create.

The 2-year rule promulgated by the VA has also posed obstacles for community colleges and their students. Since you are all familiar with the now infamous rule, I will not elaborate it in detail, but let me describe two of the problems it has created. First, a problem for the students.

Dutchess Community College offers two unique programs of special interest to veterans. One, Dental Lab Technology is designed to train students to make various dental devices such as bridges and crowns. Among its objectives is an interest to meet the educational needs of paraplegic patients, most of whom are veterans, residing at Castle Point Veterans' Administration Hospital. It is supported by a grant from the Veterans' Administration and is an innovative effort, providing education and career opportunity for paraplegic veterans who previously could look forward only to a nonproductive, wheelchair-bound, existence; not life, I emphasize, but existence.

However, because the program is very new and because critical components of the laboratory work are offered at the Castle Point VA Hospital rather than on our campus, this program and center will have to be approved by the State education department, which is already bogged down with the administration of VA regulations, before the VA Administrator could approve the enrollment of an eligible veteran in these courses.

The second program, Spinal Cord Technology, is the only one of its kind in the country and is supported by a VA contract. The VA, in fact, sends people to Dutchess County from all over the country to prepare them to care for patients with severe spinal cord injuries.

Again, much of the course work is taken at the Castle Point VA Hospital rather than on campus and, as a result of the 2-year rule, there is a strong potential exposure for both our college and the students involved. What an incongruous set of circumstances could result. A Veterans' Administration supported and initiated program, servicing paraplegic veterans in one case, who then might not be eligible for support to avail themselves of the program because of another VA regulation. This is "Catch 22" personified.

In addition, there is an institutional problem. It took an administrator and his secretary at Dutchess 42 hours to prepare the necessary forms for submission to the State education department—which now must approve our 14 extension centers which have been operating for 6 years, including during the full reaccreditation of our college.

We estimate it will take 17 hours of administrative time each semester to file the various information forms necessary for continuous approval. If our centers are not visited in the near future—and the State education department must visit 500 similar operations in New York—we could have a serious problem with the VA concerning overpayments.

The 85–15 rule is another example of paperwork and confusion generated by the VA regulation. First, it necessitated our computing the percentage of veterans enrolled at each of our off-campus centers and on campus in each curriculum and then applying for a waiver as no more than 35 percent of our enrollment at any site is made up of veterans. While the administrative time required is not great—we estimate about 11 hours—it is nonetheless an additional burden.

Even more importantly, the evolution of the 85–15 rule is an excellent example of the confusion that is frequently generated by regulations promulgated by the Veterans Administration. Most of the communications regarding new regulations, rules or policies come in the form of Department of Veterans Benefits—DVB—circulars. Many times it is difficult to tell whether the item contained in the circular is a new policy or a proposed policy or whether it is subject to modifications and must still go through congressional hearings.

The Veterans' Administration does not seem to communicate its intentions to representative institutions or associations, to "test the water", so to speak, before it publishes these circulars. As a result, huge outcries occasionally result and then, recognizing the problem—albeit belatedly—the VA "backs off" the regulation or attempts a clarification or modification. In the interim, college and university administrators spend a great deal of time and energy attempting to formulate a response to the regulations, and students, who may have to be alerted to the potential difficulty, expend a great deal of anxiety.

Such a case in point is the impact of the 85–15 rule at Dutchess. The rule when first issued called for computing the ratio of enrolled veterans in each Dutchess Community College curriculum. To this ratio was to be added the ratio of Federal aid recipients—BEOG and SEOG—at DCC. If the combined ratio in a curriculum exceeded 85 percent of the total enrollment in the curriculum, veterans would not be eligible for benefits.

First, this would pose an obvious problem for the paraplegic veterans enrolled in our dental technology program, which I cited earlier. Second, the day our institution mailed its request-for-waiver letter, after spending the time computing the ratios for all of our 35 curricula, the regulation was modified to require this procedure only of institutions whose veteran enrollment exceeded 35 percent of its total enrollment. More than a full day's work was wasted.

A second example deals with the new regulations for summer sessions study, which I mentioned earlier. We had originally been told by our liaison with the VA, our V.R.O.—our Vet Rep on Campus—an excellent person, I might add, that information he had received indicated only contact hours would be used to determine full- and part-time students and, as a result, veterans benefits. For 3 weeks, we labored under this misinterpretation and counseled students that enrollment in a summer typing course, which has 5 contact hours and carries two credits, would be considered as full-time enrollment, and would receive full-time benefits, while students in most math, English, history, business, engineering, and other courses, which meet for 3 contact hours and carry three credits, an indicator of a greater academic effort and worth, would be considered as enrolled in part-time study. Likewise, the student enrolled in a one-credit physical education course would be considered half-time, on a par with the English, math, or business student.

Only on Tuesday of this week did we discover that this interpretation was incorrect and that both contact and credit hours would be used in making the necessary calculations.

Once again, a waste of time, effort, and energy which we can ill afford. We were informed of this change at a meeting on Tuesday. Had we not attended that meeting—and some colleges do not always have the funds to do so—we may have been laboring under a misconception for many months.

The counting of a summer session with the following academic year, a practice long approved by the VA, was changed recently so that this procedure is no longer acceptable. While the change is in the best interest of veterans, and we concur, it nonetheless generates change in our policies and procedures and additional work.

The situation has become so common that the term "inoperative" has become the standard in VA lexicon.

As part of my testimony, I have attached a detailed analysis of the amount of time our institution spends in administering the various veterans regulations. In direct, measurable cost, we have estimated an annual expenditure in excess of $5,500 and this does not include the administrative hours devoted to considering the impact of and appropriate response to a new regulation or interpretation of a regulation. I estimate that kind of time this year alone to be approximately 50 hours or more. Many of it involving myself and deans on campus.

If we spend as much time coping with similar issues for our entire student body, I would have to triple my administrative staff. Furthermore, these staff people are unable to perform their other responsibilities while they are devoting this tremendous amount of time and effort to but 8 percent of our students.

As an example, our microfilming of student records has fallen 18 months behind schedule because the person who we have to perform this function is now engaged primarily with veterans' affairs.

The miasma of regulation continues. At this time, institutions do not know the status of the 85–15 rule, the 2-year rule, conditions of unsatisfactory progress, and other regulations which are under challenge and in a state of flux. In fact, it is possible to receive one interpretation from national VA administrators and different interpretations from regional VA administrators. It is also not uncommon to find two regional administrators giving different interpretations or applying regulations in a different manner.

Another recent change will create significant hardship for veteran students and financial losses to colleges. The VA has announced that it will be unable to make payments to veterans until November 1—and that date is not guaranteed. Since we are being encouraged to serve and recruit disadvantaged veterans, they will not come to our doors with no funds and no hope for VA support for more than 2 months. They will either choose not to attend or will request colleges to defer tuition.

If the latter route is chosen, the colleges will, as has been experienced by the VA, not recoup all of the money owed them as a result of deferrals. They will eventually have to absorb some losses—which in public institutions is frequently illegal and is always difficult to justify. The alternative is even less appealing: To refuse to give tuition deferrals and to deprive the veteran of educational opportunity.

I have attempted to provide you with specific problems created by the law and the regulations. I would like to end with a few general conclusions, and particularly address some of the other questions raised by committee members.

It seems unfortunate that the entire realm of these administrative regulations appears to be permeated with an attitude that colleges and universities are guilty until proven innocent. While it is true that there have been abuses by some veterans, and a few postsecondary institutions, the numbers involved have been relatively small. Yet, every college and university in the Nation is being forced to run the gamut of regulation as if their sole intent was to defraud the Veterans' Administration.

Let us also recall that, despite the nature of some of the questions posed, the GI bill was not designed as a means of aiding colleges. It is a mechanism for providing educational opportunity to veterans. If it is the intent of Congress to provide almost $5 billion to higher education, then I am certain we could conceive of less expensive and less troublesome methods of achieving that end.

A committee member also asked for specific suggestions to cope with the problem of both institutions and individuals taking advantage of the existence of educational benefits. My suggestion is a simple one. It is to start with a different basic premise—to utilize and take advantage of the educational structures which exist rather than to ignore their existence and to the view the Veterans Administration as the sole agency for insuring that both the Government and the veteran obtain full value for each dollar spent on higher education.

As a starting point, create regulations that recognize the distinction between regionally accredited institutions of higher education and their programs and services and those of other types of institutions and organizations.

If the problems exist within the classification of accredited institutions, treat them on an exceptional basis rather than forcing all colleges and universities to share the costs of their errors—and errors, unforunately, particularly in a state of such regulatory confusion, will be made.

Second, utilize and support the appropriate State agencies when attempting to identify and deal with the problem areas.

Third, recognize that the goal of the vast majority of colleges and post-secondary institutions, and the people who staff them, is to educate students, not to defraud them.

Last, communicate—communicate before regulations are issued; communicate while they are in the process of development and not after they have been announced and valid objections are made.

Perhaps the Veterans' Administration could more effectively utilize the advisory panel that is available to consult with them on a regular basis regarding new regulations, interpretations or general problem areas. Although such a panel exists, I understand its activities have been limited and less than successful; and in addition, it might be useful to create panels on a local basis for the same purpose.

We recognize the problems with which you are concerned. As taxpayers, and perhaps even more as educators, we are equally troubled. We wish to work with Congress and with the Veterans' Administration in coping with the dilemma. We do not wish to be continually compelled to create separate academic policies for one group of students based upon their means of support or as a result of Federal regulation. All we ask is a reasonable opportunity to fully participate in solving the problems confronting us all.

Thank you, once again, for your time and attentiveness, particularly at this hour.

Mr. HANNAFORD. Thank you, Mr. Connolly. The additional information you have provided the subcommittee will be submitted for the record at this point, there being no objection.

[The material follows:]

Area and when	Specific activity	Who	Hours
Certification:			
July	Prepare veteran's certification cards. Prepare and mail early registration packets.	Records clerk	4
July-August	Check returned cards. Certify those veterans who register by mail for part-time study.	do	16
Do	Certify those veterans who stop in person at registrar's office.	do	2
August	Certify veterans at the regular campus and off-campus registrations.	do	25
September	Prepare list of all enrolled veterans for semester computer update.	do	15
Do	Prepare list of veterans enrolled at off-campus sites.	do	2
September-October	Verify prepayment cards received from VA via DCC business office.	do	2
July-August	Defer tuition payments of those veterans unable to pay at registration.	Associate dean of students, assistant dean of administration.	25
Change of status:			
End of 3d week	Check official minilocator for changes in credits for which veterans were certified as a result of add/drop, late registration or cancelled course modifications. Report changes to VA.	Records clerk	14
First day of October, November, and December.	Using computerized print out of veteran's course loads, check official course changes against original certifications. Report changes to VA.	do	9
November-January	Check midterm grade reports of all veterans. Contact faculty (or check rosters) of those veterans with F's or INC's to ascertain whether grades are a result of poor (or no) attendance. Report "walkaways" to VA. (A new attendance monitoring system, in which the burden of reporting a veteran's attendance will be put on the veteran, is being instituted in the 1977 spring semester. If it is as successful as we hope, we estimate the hours spent by college personnel for this activity will decrease to 4.)	Assistant registrar for records. records clerk.	26
Matriculation:			
April	Notify veterans of VA requirements regarding matriculation.	Records clerk	4
June-August	Prepare and distribute matriculation packets and related information.	Records clerk, secretary to registrar, registrar's, and evening advisement staff.	30
July-Janaury	Prepare study plans	Secretary to registrar, registrar's and evening advisement staff.	125
Reports:			
December	Confirm veteran's enrollment and report any changes during period for which certified.	Records clerk	12
As requested	Do research and computations as required.	do	4
Miscellaneous:			
September-January	Attempt to collect overdue tuition and fees, the payment of which was deferred pending receipt of VA benefits.	Associate dean of students, assistant dean of administration and staff.	85
Do	Supervise veteran work study student aides assigned to office of registrar.	Records clerk	30
Do	Provide information, respond to inquiries, make referrals, etc. regarding all matters of eligibility of veterans to receive VA benefits for study at Dutchess.	Associate dean of students, assistant registrar for records, records clerk, director of admissions, and registrar director of inmate education.	55
Do	Attend meetings and conferences, make phone calls, correspond, file reports, etc. in support of college's responsibility for the enrollment of veterans.	Associate dean of students, assistant registrar for records, director of admissions and registrar, records clerk, et all.	80

And thank you Mr. Nyquist and Mr. Eggers. Thank you for three such fine statements.

As you gave your statements, I was reminiscing over many years of teaching myself in college and reflecting that the problem that we face is, as has always been, a simple problem of education, whether it is concerning the Veterans' Administration or not, and that is the fact that education cannot be measured with any precision, either quantitatively or qualitatively. Yet, we, as educators, have always been asked to measure and to administer rewards and punishment.

It is ironic that the State of New York has probably done a better job—or at least has put more effort into such measurements than any other State in the Nation, is here presenting this problem today and presenting it so very well. Certainly, I think New York would be said to be No. 1 in terms of its efforts to measure.

Being unable to measure, we have sort of measured the amount of pain that we inflict on students rather than what we have instilled in them over the years and we in the Congress and in the Veterans Administration have tried to solve our problem of a very small amount of fraud and deception by imposing a great deal of pain on the educational institutions.

I have no questions. I will call on the members of the committee in order of their arrival this morning.

Mr. Walsh.

Mr. WALSH. Thank you, Mr. Chairman. I think this is the finest testimony that we have had presented to this committee in the couple of years that we have been holding hearings on this problem and I think it is the first time that we have heard detailed suggestions as to how the regulations can be changed and can implement the desire of the education community to assist the veteran.

Last year, I recall that we sat here and we heard testimony from many institutions—many of them probably not of the caliber of the institutions that are represented here this morning. I think it shocked the conscience of this committee and that is why some of these regulations developed and I think you have to understand the problem that we were faced with last year.

When we had testimony presented to us that there were over $900 million in overpayments, I think the committee then put pressure on the Veterans' Administration and it so happens, as it happens so very often in Government, the Veterans Administration overreacted in its determination to try to respond to the committee's demands to do something about these overpayments, that these regulations have come about.

So I am somewhat sympathetic to the efforts of the Veterans Administration, but knowing that it had imposed such an academic burden and an administrative burden on the educational institutions, it was for that reason that I asked this committee to hear the gentlemen from New York today.

What I would like to suggest, Mr. Chairman, is that all States are not alike, all institutions are not alike, and perhaps the best thing that this committee could do would be to take the testimony presented by these gentlemen here today and present it to the Veterans' Administration and ask for their comments on it. Then bring them back here before the committee and see what they do have to say.

I have heard some other problems in connection with the regulations. I believe one relates to a program at Sing-Sing Prison—is that in your district, Mr. Connolly?

Mr. **Connolly.** No; that is in the district of Genesse Community College.

Mr. **Walsh.** I understand that there was a very fine program that was developed there for the inmates of the prison, most of whom were veterans, and they within the prison were using a veterans bill to further their education while they were in prison. Now this is the finest type of rehabilitation that I can think of and I understand that because the program did not meet the criteria of the Veterans Administration that it had to be discontinued.

You have outlined again the program with the Veterans' Administration Hospital in your district, Mr. Connolly.

We had some testimony from the Veterans Administration and I am just curious as to whether anybody from our State was invited to attend this meeting. We have a statement from A. H. Thornton, Director of Education and Rehabilitation Services. In defense of the Veterans Administration, he indicates that they have attempted to maintain a communication with the educational community. And he indicated—and as far as I can find, this is the only meeting that was set up—on March 24, 1977, and I quote: "We met with officials of the American Council of Education, the American Association of Community and Junior Colleges, the American Association of Collegiate Registrars and Admissions Offices and with other representatives of the educational community." Now, as far as I know—as far as his testimony shows—that is the only meeting that has been set up between the Veterans' Administration and the educational community.

Does anyone have any information other than that—have there been other meetings. Do we know?

Mr. **Hannaford.** There are no meetings that the staff knows of, Mr. Walsh.

Mr. **Walsh.** I see. I am told that there were other meetings, but I do not have the testimony of any of those meetings. But I think that we do suffer a communication gap here as Chancellor Eggers has suggested, this is true.

I would like to take this testimony to the Veterans' Administration and then ask them to respond to some of these points.

I have just one specific question and it relates to President Connolly's observation. He refers to the deferred tuition and I just wonder under the law, and I recall having written and recommending that they establish the first community college when I was with the County of Onondaga, that as far as I knew there was no provision for any deferred institution at the community college.

Mr. **Connolly.** There is not. Colleges frankly do it at times and as a result, they are subject to criticism from the department of audit and control of the State. They are confronted with the very real problem of the veteran who simply does not have the money to pay the entire bill at one time because of the income or lack of income and is not eligible for any kind of loan and the other kinds of Federal support and aid or tuition assistance from New York may be coming very late. They are dependent primarily upon veterans' benefits, particularly for support of their family and if it starts coming in in November or even later, they could be 2 to 3 months.

I appreciate the fact that this is a very difficult problem for the VA as well as the colleges. The prepayments are one of the items that got us into a great deal of difficulty initially, but at least it got many veterans and the VA into difficulty because of prepayment. And yet postpayments, depending on the time, are equally troublesome. I think more part payments is probably the solution to that kind of thing. Neither prepaying nor postpayment, but paying more closely to the time of actual registration so that the gap of support is not that great—the time gap.

Mr. WALSH. There was one other thing that concerned the committee a great deal and that was what you call the "seat time" and we have had a great deal of testimony before the committee in previous years that students receive prepayments and there was no way that we could verify whether they ever attended classes or not. There were never any rollcalls and no attendance was taken and I think in an attempt to try to control that situation, the Veterans' Administration developed these regulations.

We also heard testimony from professors and administrators that they did not feel that it was their responsibility to prove to the Veterans' Administration that a student was in attendance.

On the other hand, the Veterans' Administration, in order to justify the expenditure to us, had to establish some way of verifying that the student was in attendance.

What would be a sensible solution to that problem?

Mr. CONNOLLY. As Congressman Hannaford said, the difficulty of measuring learning—but an important question is this. Is the VA interested in reimbursing seat time or rather in learning? If it is in learning—which Congress I think, is interested in, and not interested in veterans occupying seats in college classrooms, they are interested in veterans learning—then permitting the States and particularly the institutions the penalty to measure that learning rather than simply measuring the seat time, is important.

Our attendance records particularly were not designed and established to provide for payment of students in courses by the time they spent there. Our policies, and most colleges are, frankly, liberal, are based more on the learning that is achieved, recognizing that a student may not be in class, but may be learning in other ways. Our concern is the learning that is the outcome and not the amount of time they may have spent in a class. I think that is the thing we should focus on—on the learning that takes place. As we mentioned earlier, the efforts of the State of New York and the efforts of independent institutions in measuring learning is where the focus should be rather than on the seat time.

Mr. WALSH. I think one of you gentlemen put your finger on it exactly when you stated that the focus should be on those institutions where we have had some difficulty, rather than on those institutions that have demonstrated their capacity for quality education. I think this is where we, in attempting to make a correction, waved too broad a brush and we have painted all of the institutions in the same way. I think this is the problem.

I am still concerned, however, about the off-campus time or the non-seat-time. We did discover many, many abuses and I still think we have a responsibility to try to correct that condition. I agree that you do not have to sit down in a classroom to learn something—there are many, many ways of doing it. Syracuse University has led in many innovative ways, but we would certainly be interested in hearing some suggestions as to how we can guarantee that a student who is getting money from the Veterans' Administration is also getting an education. Mr. Nyquist.

Mr. NYQUIST. All standards of progress under that rubric filed in New York State include a system for prompt reporting of changes in veterans' course loads. That, to us, seems to be the system by which you could control enrollment and dropping courses, and so on. Maybe that needs to be strengthened, but that is what we would put the emphasis on.

Mr. CONNOLLY. I would like to add also that I think in one way the Veterans' Administration has learned from education and that is that the underlying intent, it seems, of many regulations has an educational basis—the old analogy of the teacher who punishes the entire class because he or she does not know who committed a given act and who really deserves the punishment. The regulations tend to do that. Everybody is, you mentioned earlier, painted with the same brush.

I think, and I believe this educationally as well, that it has always been better to find out who the guilty ones are and deal with them on that basis rather than assuming that everyone should share in that guilt and that punishment simply because it is not as easy to identify the guilty. I think the focus should be on identifying those institutions rather than painting everybody with the same broad brush of assumed guilt.

Mr. WALSH. I have no further questions, Mr. Chairman, but I do want again to express my deep appreciation to these gentlemen. I think they have made a remarkable contribution to the work of this committee and I think that they contributed greatly to what we hope will be a solution to the problems so that we are able to achieve the close working relationship between the Veterans' Administration and the higher educational community.

Thank you very much, gentlemen. Thank you, Mr. Chairman.

Mr. HANNAFORD. Thank you, Mr. Walsh. Mr. Wolff.

Mr. WOLFF. Thank you, Mr. Chairman. I would like to echo the sentiments of my colleague, Mr. Walsh, with regard to many of the things that he has already indicated, particularly, too, I would like to welcome Mr. Nyquist and the other members of this panel here this morning. Because of the excellent presentation that they have made, I am sure that we have now much more in the way of ammunition to go to the Veterans' Administration with than we did have previously because of these specific examples that you have been able to provide us with.

One element that seems very strange in this entire structure of the GI bills and the like is the great emphasis that we have placed on jobs for people generally, in order to help our economy. Yet, when we try to enlarge the programs and try to accelerate the programs and the like to make them better fit the veterans' needs, we find objection raised to these things. We have, in lieu of that, offered public service jobs.

I would much prefer to see some of that money that is going into public service jobs going into increased funds for veterans' education, which will be a return for the Federal Government, as it always has been in the past, in the form of increased taxes and upgrading the ability of the individual to learn in the future.

I have a short prepared statement, Mr. Chairman, that I would like to read, if you do not mind, because I anticipated this session today.

The programs for veterans' education and rehabilitation, particularly the Vietnam era of the GI bill has always been one of the top priorities, I think, not only of this committee, but of the Congress. While we must make every effort to insure that these programs are not abused—and that has been the major problem—by either the veteran or the educational institution, we must also make every effort to see that both the veteran and the institution itself can fulfill their educational objectives and not be abused as well.

Now, I am well aware of the problems our educational institutions are facing with respect to the 85–15 rule and the 2-year rule, which has already been the subject of hearings and which I have joined a number of colleagues in attempting to address. I would like to direct my inquiry and then comments to the regulations concerning the standards of progress, including grading policy and courses credit policy.

In my mind, the VA regulations with respect to the standards of progress strike deep into the heart of the States and institutions rights to establish academic standards. I must seriously question the propriety of the Federal Government through the Veterans' Administration to determine what our States, colleges, and universities may consider to be satisfactory progress.

I think one of the great objections is to the first area of the Federal aid to education bill with the intrusion of the Federal Government in setting up standards and intruding upon the prerogatives of the States and the educational institutions that were involved.

I think this gets right to the heart of the matter. I would hope that all of us here could agree that some sound educational philosophies differ in approach. Some stress actual in-class hours while others emphasize independent student research.

I do know that perhaps the highest form of education, that leading to the doctorate, stresses a great amount of independent research, and would certainly not fall within the agreeable confines of the restrictions that are set by the Veterans Administration.

While I am not an academician, I know that it is well accepted that an individual's measurement of learning is not dependent solely upon the actual time spent in a classroom, but is a function of both out of class contact with a particular subject matter and the actual classroom instruction.

By mandating what is to be considered satisfactory progress, what is to be considered a full-time course of instruction and what constitutes proper grading standards, the VA has usurped one of the most fundamental underpinnings of our historically-sound system of higher education.

I brought with me today, and I realize that the witnesses may not have had sufficient time to study it, a discussion draft of some possible legislation which would remove the authority of the VA to predetermine standards of progress while leaving intact the VA's oversight responsibilities with respect to the quality of education offered in institutions.

Briefly, the proposal states that a veteran—and I quote:

> . . . shall be deemed to be progressing at a satisfactory rate of progress if his or her rate of progress satisfies the regularly prescribed standards and practices of the educational institution, including, but not limited to course credit policies and grading policies.

If such standards and practices are approved by appropriate State approving agencies, they shall apply. The Administrator then would retain the authority to suspend payments of benefits if he determines, after consultation with the school and approving agency, that the institution's regularly prescribed standards and practices are—and again, I quote from this piece of legislation—

> . . . inconsistent with the quality of education sought to be encouraged by the GI bill and contrary to generally accepted or recognized educational practices or theory.

Finally, this proposal would require that a course of instruction be considered to be full-time—a full-time course for the purpose of benefits payments—if the course has been reviewed and accredited as full-time by a nationally recognized accrediting agency or association.

I believe that this proposal will help to restore integrity to the VA education programs as well as the independence States, colleges, and universities must have to determine academic standards. I would like to get comments of the witnesses to this statement that I have just made.

Mr. Nyquist. Mr. Chairman, we have had the privilege on two occasions to look at Congressman Wolff's proposals and they are very, very promising. We would count it a privilege if we could assist you further, sir, in any refinements that are needed. I think they are very, very promising.

Mr. Wolff. Thank you very much.

Mr. Connolly. Yes, and I would support that as well.

Mr. Wolff. Thank you, Mr. Chairman.

Mr. Hannaford. Thank you, Mr. Wolff, for a very fine statement and I must say that I have not seen the proposal, but I am most interested in it and I thank Mr. Wolff.

The gentleman from Tennessee, Mr. Allen.

Mr. Allen. Thank you, Mr. Chairman. First, I, too, would like to compliment each of you gentlemen on a very fine statement and well-considered thoughts that you have put forth in your testimony.

But if you will, for a moment, put yourselves in our position. As Mr. Walsh correctly stated, last year we were confronted with widely circulated news stories and reports that there was, indeed—to use the common phrase—a "rip-off" in the VA program, and that perhaps because of the prepayment policy that the Congress had adopted a few years before, that thousands of veterans had been tempted to and induced to register in a college or vocational training school, not with any idea at all of getting an education, but in order to obtain the money that was there available. In entirely too many cases, they perhaps registered, received their money for several months, and sometimes as long as a half a year or a year, only to find out that that veteran never attended school or college. There was no evidence that they had been engaged in any research work on the outside, but simply endorsing and cashing their checks that were forthcoming from the Veterans' Administration to them.

That was our problem. You gentlemen seem to have a tendency, it seems to me, to minimize what you call "seat time" and yet, if veterans are not going to be required to attend at least a certain percentage of the classes and class hours, then how can we justify holding the classes at all if no one needs to attend the classes in order to get a proper education?

I am fully aware that anyone who learns to read and to comprehend what they read can get an education without enrolling in any college or university. We have had some of the great statesmen of this Nation who never even went through high school, but who did learn how to read and became self-educated. We know that many veterans and other students can enroll in a college and become self-educated.

If they are spending their own money to enroll in a college and want to pursue the learning process without attending classes, that is their business. It is their money and as long as in the end they can pass the required examination and show satisfactory progress, I guess they will feel that they have spent their money well.

But what about the thousands who are induced merely to enroll in college or into one of these vocational schools with no intention of learning anything, simply to obtain from the Government their living allowance and to have paid to the college or to the training school tuitions for which the veterans receive virtually no benefit at all. And, to indicate that it is not important whether they attend classes or not is to invite the very kind of abuses that became so evident and outraged the taxpayers and the various Members of Congress last year to the point that, indeed, many of us were fearful that there might be a backlash in the Congress toward the continuation of the veterans' educational benefits.

I think it had a very material effect upon our ability to get an extension of the Vietnam veterans' benefits beyond the 10-year delimiting date because of the adverse reaction in this Congress to what they had heard about the fall that had been taking place.

Now, obviously, from what you gentlemen have testified, New York has done a much better job than has been brought to light from the way the program has been administered in many other States.

I think one of the most glaring cases that was brought to our attention, Mr. Walsh, last year was the case of a barber school in Chicago, if you will recall. It had about 1,100 enrolled students learning how to be barbers and they had about 11 or 12 chairs, to teach 1,100 or 1,200 veterans to become barbers. The Veterans' Administration there in Chicago went several years without discovering that the State had not done its part—had not seen to it that there was vocational training being given and yet, the Federal Government was being "ripped-off" and, indeed, those veterans who may have enrolled with the intention of becoming barbers could never become barbers because there was not the facilities there for their training.

This is what I want you gentlemen to understand and to help us in arriving at some rational solution to this matter—where we are dealing with billions of dollars of the taxpayers' money.

Mr. WOLFF. Will the gentleman yield?

Mr. ALLEN. Yes.

Mr. WOLFF. I just might parenthetically say that the only people that got clipped by that was the Government—at that barber's school. One thing I would like to mention is the fact that the Armed Forces Institute maintains a very excellent school and many of the young men and women who are in service spend a goodly amount of time upgrading their education.

I know that there are requirements being fulfilled in the way of being able to meet various tests and grading, as well as the war colleges. These are intended to have the same type of qualifications. You are not required to attend and these are primarily correspondent—correspondence courses. I think the one thing that you mentioned, which is most important, is the fact that we have unscrupulous operators who creep into every type of operation that there is existent in the country, trying to rip off the public.

We are not going to destroy the welfare system. We are going to make it better, rather than to destroy the system and to discourage the excesses that others have engaged in.

But in this situation, I think what we have got to do is to attempt to try to tailor the programs so that we are not going to be able to legislate human behavior again. We are not going to be able to bring those people to a moral decision that they are not going to try to do something.

Mr. ALLEN. I quite agree with you, Mr. Wolff, and I think your suggestion certainly merits the very serious consideration of this committee, and the committee as a whole.

I want to compliment you on it. I think you know that there has been no one on this subcommittee or full committee that has more strongly supported the veterans' education program than I have.

Mr. WOLFF. That is right.

Mr. ALLEN. But when they get down to the floor or even in the full committee, when we are confronted—when we were confronted last year with the almost adamant position taken by our fellow colleagues, that at least until this matter is cleared up to the satisfaction of the other Members of the Congress and to the people, that there was going to be no extension of the delimiting date. The program was probably unjustly held up to public ridicule and came into public disrepute.

But I think that there is no money that we can spend more wisely or which would yield greater dividends than education and education of our veterans—this pays dividends many, many fold.

This provides opportunity to veterans to take their place as more useful and productive citizens, in our society—and I am all for that.

But should we, with veterans, completely ignore that the "seat time" as the gentlemen have described it—of veterans simply enrolling in school and not attending classes at all and saying "Well, I am doing my studying on the outside and I am doing research and so on." When do we find out whether or not this is actually done? A year later or when? How much money have we invested?

What Mr. Connolly said was very enlightening to me and I appreciate your comments but I also would like as much help as you can give us in arriving at two results: First of all, that the veterans who want an education and who earn the right to get an education, do get an education, and at the same time, the Federal Government and the taxpayers not be ripped-off by literally thousands of veterans who have no intention of getting an education at all, but simply want to get the money and living expenses that is available to them by reason of their service to the country.

Mr. HANNAFORD. Thank you, Mr. Allen. Perhaps it is mirthful and interesting as an example as the Chicago barbers school, was the college teacher in Florida who enrolled in his own course and was thereby tripple-dipping. He was getting paid to teach the course, getting paid to take the course, and also fulfilling the institution's requirement that he have at least 15 students in the class.

We do certainly thank you for contributing to our education today. I would like to observe that we have honored our seat time and most of us arrived punctually.

You made a very fine contribution to the subject matter that we are dealing with. I will reflect again that this is a sensitive and tender kind of decision to be made. Over the years, a long tradition has established the process for doing this that is unique with each institution of grades and credits and degrees, in trying to measure something that is immeasurable. And the members of the committee alluded to the fact that there are people with splendid educations who have never attended school. They are self-educated and there are a lot of damn fools who have Ph. d's who went through all of the grades and credits and degrees. But it is true, as Mr. Allen pointed out and the other members, that we have to have some kind of measurement and perhaps more traditional measurement than many of us, as educators, would like to adhere to.

I do hope that this committee and the Congress and the administration will recede from the overkill in response to these terrible abuses that we have been talking about and reestablish the relationship that we had previously.

Perhaps, along the lines of Mr. Walsh's suggestion here this morning.

Anyone else have any further comments or questions?

[No response.]

Mr. HANNAFORD. I thank you very much for your remarks. The meeting is adjourned.

[Whereupon, at 10:10 a.m., the hearing was concluded.]

[The following material was submitted for the record:]

EDUCATIONAL BROKERS: THREAT TO ACADEMIC STANDARDS? PROFIT-MAKING COMPANIES RUN SOME COLLEGES' OFF-CAMPUS PROGRAMS; ACCREDITORS ARE CONCERNED OVER NEW AND GROWING PHENOMENON

(By Beverly T. Watkins)

LOS ANGELES.—The educational broker, a relative newcomer to higher education, is causing a stir among some colleges and universities and their regional accrediting associations.

Since about 1970, institutions of higher education have been entering into collaborative arrangements with profit-making firms to offer specialized off-campus instruction to a new kind of clientele.

Under the typical arrangement, the college or university signs a contract with the brokering firm, which agrees to offer an educational program on behalf of the institution for a fee. The broker's services may include developing a curriculum, recruiting students and teachers, and administrative functions.

Although educational brokering is confined mostly to small, private institutions, its rapid growth over the past few years has brought forth responses in higher education circles that range from praise to near panic.

Colleges that have collaborative arrangements with brokers say that contract education allows them to reach students who have unmet educational needs. In some cases, the arrangements have helped financially troubled institutions to survive.

Regional accrediting associations are alarmed because regional accreditation automatically passes to any agency when it has a contract with an accredited institution. The associations see educational brokers as "a threat to educational quality."

BAN ON CONTRACTS IMPLIED

The Western Association of Schools and Colleges, which has assumed responsibility for keeping other regional accrediting agencies informed about educational brokering, has issued a statement implying that it will prohibit all contractual relationships by next fall. It has asked its member institutions not to sign any new contracts and to look for ways to phase out existing ones.

Educational brokers, who say they have already been hurt by the association's "moratorium," are angry at what they consider to be unfair treatment. The assotion's position, plus some recent federal actions, have made brokers feel that their future, beyond 1977, is "uncertain" at best.

Society's new emphasis on "credentialing" is largely responsible for the recent growth of educational brokering, says Kenneth E. Young, president of the Council on Postsecondary Accreditation.

"The increasing need for education to qualify for a job or a promotion or to meet state legislative requirements for relicensing in many of the professions has given institutions an incentive to enter collaborative arrangements to serve the new clientele," he says.

'A RESPONSE TO SURVIVE'

Institutional survival is also "a key issue" in the growth of brokering, says John Sperling, director of the Institute for Professional Development.

"As their traditional student enrollments decline, small private institutions are finding things rough," he says. "They have to make a response to survive, so they are looking for new students.

"This new clientele requires new curricula, new educational-delivery systems, and complicated information-management systems." To provide them, he says, colleges need help.

Educational brokers are a diverse group, according to Craig E. Seaton, research associate in higher education with the California Postsecondary Education Commission.

In a study prepared for a conference that the commission cosponsored here with Stanford University's Center for Teaching and Learning, Mr. Seaton found that educational brokers ranged in size from firms with staffs of 100 to those with no full-time employees. Under the usual one-year agreement, the broker receives 25 to 30 percent of the revenue from a program, and the institution receives an equal amount. The balance pays for the costs of the program.

Mr. Seaton said in his report, "Brokered programs are almost always off campus." Most are less than five years old and are designed for special occupational groups. The students are usually employed adults over 30.

Although he said "the total number of organizations providing educational brokering services is unknown," Mr. Seaton was able to identify 11 in California.

More educational brokering firms are believed to be in business in the West than in other parts of the country.

SATISFIED CUSTOMERS

Many colleges and universities that have maintained contractual arrangements with educational brokers are satisfied with the collaboration.

"We feel this is one of the most positive things that has happened at U.S.F.," says Michael M. Howe, director of continuing education at the University of San Francisco.

The university "eased into a relationship" with the Institute for Professional Development in 1970, Mr. Howe says, "when we faced a rapid decline in the enrollment of traditional students."

He says the institute "moved the university into continuing-education programs off campus for the first time" and "helped the university build a community base."

Pepperdine University's M.B.A. program for business executives, offered with the Continuing Education Corporation, "has been beneficial to the university because of the contact with the business community," says Howard A. White, the university's executive vice-president.

Courses given by Pepperdine on military bases could not have been offered without a broker, he says.

The concern of the accrediting commissions over what some call "this new and troubling phenomenon" has been growing since the early 1970's.

INTERIM GUIDELINES ISSUED

In 1973 the Federation of Regional Accrediting Commissions of Higher Education, now part of the Council on Postsecondary Accreditation, issued interim guidelines on contractual relationships.

In general the guidelines state that no postsecondary educational institution accredited by a regional commission can lend its accreditation to programs offered under contract with non-accredited organizations unless the institution can show:

That the primary purpose of the program is educational.
That the courses are consistent with the institution's objectives.
That all credit offerings are under the institution's control.

In 1975 the Accrediting Commission for Senior Colleges and Universities of the Western Association of Schools and Colleges adopted its own similar policy intended, according to Kay J. Andersen, executive director of the commission, to make sure that the institutions kept control of the programs, while acknowledging that "contractual relationships might enrich the resources available to institutions in carrying out their educational purposes."

Last February Mr. Andersen advised all accerdited and candidate institutions in the western association "to anticipate the likelihood of a significant change in policy."

Citing "an unforeseen rapid development of contracts with outside agencies" as cause for alarm, Mr. Andersen indicated that institutions should "refrain from entering into new contracts," "limit the extension or renewal" of all contracts, and consider ways to "phase out existing contracts."

Earlier Mr. Andersen had announced the appointment of a committee on contract education to make recommendations on policy. The committee's proposals are scheduled for consideration this fall.

"The accrediting commission is concerned primarily with education quality," says Ellis E. McCune, a member of the commission.

"For the last two years, the accrediting commission has received a number of complaints about the standards and the quality of contract programs from school districts offering teacher education, municipal governments, other colleges and universities, and dissatisfied students," he says.

"This is a nationwide problem. It's not unique to the senior commission of W.A.S.C."

According to Mr. McCune, who is president of the California State University at Hayward, the complaints have indicated that "some institutions are operating contractual programs that do not conform to accrediting commission standards."

He cites some of the criticisms:

That programs operate without involving an institution's own faculty.
That contract programs have no relation to other programs offered by the institution.
That grading standards are too liberal.
That excessive credit is given for life experience.
That student recruitment is uncontrolled.
That tuition and fees are paid directly to the contractor instead of the institution.

The contracting agencies, think the western association's action to restrict educational brokering is unfair.

"You can't say, 'Stop what you are doing,' while you figure out a way to stop it. It's inappropriate for W.A.S.C. to declare a moratorium [on new contracts and renewals]," says Wayne Henderson, director of Western Management Institute.

"W.A.S.C. has not come up with any documentation on complaints from students and other groups that program are not doing what they are supposed to do," he says. "We deal with thousands of students. Of course, there will be complaints. Where are the data?"

Many educational brokers also think they are automatically suspect because they are in business to make money.

Peter Ellis, of the Institute for Professional Development, says the western accrediting association's moratorium has been effective and colleges and universities are no longer signing new contracts with educational brokers.

"We'll renew all our present contracts when they come up July 1," he says, "but we're not getting any new contracts. The small colleges are the main contractors. They don't dare defy the accrediting commission because they need that accreditation for survival."

Many brokers also see the recent federal actions affecting veterans as a challenge to the survival of contracting.

Some fear that the new GI Bill, which requires servicemen to contribute to their education fund, will curtail what has always been a key broker market.

Some also see a threat in recent regulations from the Veterans Administration specifying that courses must have been in operation at a single location for two years before they will be approved for veterans, and in the "85–15" rule specifying the percentage of students in a class who can be supported by federal or state funds.

More Quality Control Sought in External Graduate Courses—Accrediting Units Told to Apply Strict Standards

Washington.—The Council of Graduate Schools has called for greater control of the quality of off-campus graduate-degree programs.

In a statement on "Non-Residential Graduate Degree Programs," the council has urged regional accrediting agencies to apply the same standards to a university's external-degree programs that they apply to its on-campus offerings.

A 1975 survey by the council indicated that at least 54 universities were offering 127 external graduate degree programs.

While no surveys have been conducted since then, a spokesman at the council said the number probably has increased substantially in the past two years.

The council's statement reflects growing concern over the off-campus programs.

QUALITY CRITICIZED

Critics charge that the programs often lack the quality of graduate programs on the home campus and may have been established primarily to make money.

In addition, universities located in geographic areas where other institutions have established external-degree programs see them as competitive threats.

The statement noted, "Our primary concern is whether such programs offer to their public graduate education and graduate degrees which meet the standards to be expected of graduate-degree programs offered on the home campus under more traditional conditions."

"SELECTIVE ACCREDITATION"

Specifically, the council said regional accrediting agencies should "accept responsibility for the accrediting of all institutions and academic units offering graduate-degree programs in their region, regardless of the location of the home campus of the institutions and the accreditation status of the programs on the home campus."

It said the accrediting agencies should "move in the direction of more specific and selective accreditation, rather than accreditation of the institution as a whole. . . ."

An institution, it added, "might be accredited to offer on-campus master's programs, but not be accredited for off-campus master's programs except for certain specifically named programs at specified locations."

For the universities themselves, the council made these recommendations:

> No institution should begin to offer an off-campus graduate program "until it has received authorization from the appropriate state agency and from the regional accrediting associations involved."
>
> An institution should demonstrate to state agencies and accrediting bodies that the purpose of the program "is consonant with the expressed and accredited purposes of the institution" and there is "a genuine unmet need" for it.
>
> No program should be offered unless the institution can demonstate that it is "essentially equivalent in quality to comparable graduate programs offered on the home campus."
>
> No program should be offered unless it provides "full and easy access to the faculty, library, and other resources of the appropriate academic units on the home campus."

Copies of the council's statement—Non-residential Graduate Degree Programs—are available for 50 cents each from the Council of Graduate Schools, Suite 740, One Dupont Circle, Washington 20036.

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